

SCO

SH

LO

8  
CASE

OF THE HONOURABLE

THE BARONETS

OF

SCOTLAND AND NOVA SCOTIA,

SHEWING THEIR RIGHTS AND PRIVILEGES,

DIGNITORIAL AND TERRITORIAL.

---

"Retinens vestigia famæ  
Virtutis præmium Avorum."

---

EDINBURGH:

W. BLACKWOOD AND SON,

LONDON, J. MORTIMER, 2 WIGMORE STREET,  
CAVENDISH SQUARE

---

M DCCC XXXVI.

PR

St

On the  
the E  
The  
having  
who h  
tee of

R.  
dresse

Yo

consid  
with v  
have b  
are av  
the 26  
Baron  
submi  
of the  
printed  
On the  
institut  
leges i  
was ap  
honour

**PROCEEDINGS at a Meeting of the Honourable the BARONETS of SCOTLAND and NOVA SCOTIA, held in Gibb's Royal Hotel, Princes' Street, Edinburgh, 21st of October, 1836.**

---

**SIR JOHN CAMPBELL, BART. of ARDNAMURCHAN,**  
in the CHAIR.

ON the Motion of Sir James Stuart, Bart. Sir John Campbell, the Baronet of Senior Creation present, took the Chair.

The names of the Baronets present, personally or by proxy, having been read over, with the list of those (twenty-nine in all) who have concurred in the proceedings of the standing Committee of Baronets in London;

R. Broun, Esq. the Hon. Secretary of the Order, rose and addressed the Meeting:—

**YOUR HONOURS,**

As the proceedings of this day will necessarily take up a considerable time, I shall occupy the attention of the Meeting with very few preliminary observations. From Circulars, which have been sent to every Baronet whose address is ascertained, you are aware that a Meeting of Baronets was held in London on the 26th of May last year, at which Sir Francis Shuckburgh, Baronet of Shuckburgh presided, when I had the honour of submitting a Case, shewing the dignitorial rights and privileges of the BARONETAGE; 250 copies of which were subsequently printed, and distributed amongst the Members of the Order.— On the same occasion, resolutions were unanimously adopted to institute measures for the revival of such of the rights and privileges in question as had fallen into disuse; and a Committee was appointed to conduct the proceedings, to which I had the honour to be requested to act as Hon. Secretary. Since the

period referred to, the Committee, (which by the resolution of a special General Meeting of the Order, held last season, is now a standing or permanent Committee, comprising forty members of the various creations of Ulster and Nova Scotia,) has met frequently; five General Meetings of the Order have been held; and those proceedings have been adopted, which, from time to time, have been reported by the Committee to the Members generally. Upon these points it is therefore necessary for me to delate. The Baronets who have become parties to the proceedings of the Standing Committee, now amount to upwards of three hundred, including His Grace the Duke of Northumberland, the Most Honourable the Marquess of Ely, the Earls of Buckinghamshire, and Ferrers, Viscounts Hereford, and Combermere, and twenty-six other Baronet-Peers; the premier Baronets of Ireland, Scotland, and the United Kingdom; and many of the oldest and most influential members of the Order. In addition to these, the invitation to this day's proceedings has procured the adhesion of the noble Baronets whose names I have submitted. Under these circumstances, and considering the character of a reign in which all classes of His Majesty's subjects are asserting their ancient rights and privileges, a more opportune moment never can arrive for reviving the claims of the Baronets of Scotland and Nova Scotia, than that under which this Meeting is assembled. For this purpose, I have embraced the opportunity of being for a short time in Scotland to convene this Meeting; thereby exercising a discretionary power vested in me by the resolution of a General Meeting of the Order, of adopting such steps as I shall consider best calculated to forward the general objects in view. Not having the advantage of being personally acquainted with any of the Baronets resident in Edinburgh, the arrangements of this day's proceedings have devolved entirely upon myself,—and I must, therefore, throw myself upon the indulgence of the noble Members present, for the manner in which they shall be conducted. To relieve the tedium of the voluminous papers through which I have to wade, I may here mention that the paper of business may be divided into five sections.—1st, The reading of a Case which I have drawn up, setting forth the rights and privileges, dignitorial and territorial, of the Baronets of Scotland and Nova Scotia;—2nd, The submitting some heraldic drawings, illustrative of certain claims

ion  
, is  
em-  
met  
ld;  
to  
ge-  
to  
ed-  
of  
ver-  
of  
er-  
ets  
the  
ion  
red  
it-  
er  
as-  
ne  
ets  
et-  
or-  
ais  
in  
ot  
rd  
g  
n-  
ed  
on  
n  
ne  
e  
c-  
t-  
l,  
-  
s

a  
o  
o  
n  
o  
l  
t  
i  
s  
l  
w  
h  
th

in  
th  
by  
ye

ere  
gre  
B  
un  
no  
dig  
to  
'g  
'u  
'c

diff  
16  
17  
min

advanced in the Case;—3d, A correspondence with the Secretary of State for the Home Department, on the subject of the rights of the Eldest Sons of Baronets to Knighthood;—4th, A few remarks on the Report made by the Officers of Arms in England on the Claims of the Ulster Baronets;—and 5th, A series of resolutions, with a few concluding observations. Having got through these items, if I shall succeed in putting the claims in question in the light before the Meeting which I am hopeful to do, I shall then trust that some noble Baronet will propose the resolutions *seriatim*, for adoption. Whilst I go over these matters, which, perhaps, will not occupy less than three hours, I shall hope to be favoured with the patient and attentive audience of the Meeting.

Mr Broun then read as follows:—

CASE of the Honourable the BARONETS of SCOTLAND and  
NOVA SCOTIA, shewing their Rights and Privileges,  
Dignitorial and Territorial.

THE BARONETAGE, which forms a distinct estate of Nobility in the British empire, intermediate between the PEERAGE and the KNIGHTHOOD, was erected by His Majesty King James I. by Charter under the Great Seal, on the 22d of May, 1611, nine years after his accession to the throne of the United Kingdom.

The PEERAGE, the highest degree of hereditary nobility, was erected for *political* objects; the KNIGHTHOOD, the highest degree of personal dignity, was erected for *moral* objects; the BARONETAGE, which combines and partakes of both,—being a union of Baron-et, or Lesser Baron, which is hereditary and ennobles, and of Eques-Auratus, or Knight, which is personal and dignifies,—was erected for *social* objects. ‘As never had Order,’ to use the language of an ancient heraldic writer, ‘a founder so great, so happy, so absolute,—neither was ever anie grounded upon consultations and considerations more weightie, more necessary, more religious.’

The noble order of Baronet, or Lesser Baron, consists of five different branches:—1st, The *Baronets of England*, erected in 1611, and terminating at the Union of England and Scotland in 1707; 2d, The *Baronets of Ireland*, erected in 1619, and terminating at the Union of Great Britain and Ireland in 1801;

3d, The *Baronets of Scotland and Nova Scotia*, erected in 1625, and terminating at the Union of Scotland and England in 1707; 4th, The *Baronets of Great Britain*, commencing in 1707, and terminating at the Union of Great Britain and Ireland in 1801; and 5th, The *Baronets of the United Kingdom*, commencing in 1801, and continuing to the present day.

The *Baronets of England*, and the *Baronets of Ireland*, are called *Ulster Baronets*, these two branches of the order having been instituted by King James I. for the plantation of Ulster, which at the time comprised all of the Kingdom of Ireland which was within the English pale; and 'to establish that so great a province of the Empire should more and more flourish, not only in the true practice of religion, civil humanity, and probity of manners, but also in the affluence of riches and abundance of all things which contribute either to the ornament or happiness of the commonwealth.' The *Baronets of Scotland and Nova Scotia* are called *Nova Scotia Baronets*, this branch having been instituted by King Charles I. for the plantation of Nova Scotia in North America; and the honour and weal of his ancient Kingdom to which it was annexed. The *Baronets* created since the Union have been raised to the dignity on account of their merits and services, without respect to any specific object; and by that event, which gathered together under the sceptre of the House of Stuart the illustrious realms of England, Scotland, and Ireland, the *Baronets of the various erections* are collectively **BARONETS OF THE UNITED EMPIRE**.

The noble **ORDER OF BARONET** which, considering the brilliant character of his reign, and the enlarged relations of society, 'the Rycht Excellent, Hie, and Mychtie Prince James, by the Grace of God, King of Great Britain, France, and Ireland, &c.' erected to promote and consolidate the Union of his Crowns, and to attach by a new bond of allegiance to the monarchical institutions of the State, such as should best effect the nation's good and glory, is defined in His Majesty's Letters Patent, to be a Title, Style, Dignity, and Degree of Dignity, hereditary, mean in place betwixt the degree of a Lord of Parliament, and the degree of a Knight; with all and singular the privileges and pre-eminence which such a Title, Style, Dignity, and Degree of Dignity hereditary, implies. By a Royal Decree the year subsequent the Order was amplified with the addition of the privileges, the pre-eminences, and the ornaments of Knighthood;—and, farther, by a Final Decree in 1616, it was granted and appointed, that should any questions arise concerning the rights, privileges, and insignia of the Baronetage, such questions should be decided by, and according to, the usual rules, custom, and laws for place, precedence, and privilege, by which the other degrees of heritable Dignity (viz. the Barons, Earls, &c.) have had their rights, privileges, and insignia, ordered and adjudged.

TH  
in 16  
its R  
the m  
nation  
King  
Scotla  
ancien  
plants  
With  
Coun  
1621,  
' to e  
' of t  
' cons  
' inno  
' Our  
' as V  
' dom  
' Cou  
' proc  
' or t  
' part  
' lying  
' desig  
' Our  
' by a  
' have  
' shall  
' great  
' sea  
' and  
' said  
' fore t  
' tation  
' anie  
Imm  
William  
Great  
1621. a  
the her  
British  
ander,  
the cou  
justice,  
success  
' preced  
' given

The Baronetage having realized in Ulster, from its erection in 1611 to 1620, in an eminent degree, the objects proposed by its Royal Founder, and which with justice may be considered as the master policy of a reign that will ever be conspicuous in the national annals as a period of domestic happiness and peace, King James in the latter year, intended to extend the order to Scotland, as 'a means of expressing his affection towards his ancient Kingdome,' and at the same time of promoting the plantation of Nova Scotia which he had annexed to its crown. With this view he addressed a letter to the Lords of his Privy Council, dated from his Court at Beauvoir, the 5th of August 1621, in which after greeting he says, 'having ever been ready to embrace any good occasion whereby the honour or profit of that Our Kingdome (of Scotland) may be advanced, and considering that no kynd of conquest can be more easie and innocent than that which doth proceede from plantations, &c. Our pleasure is, after due consideration, if you finde this course as We have conceived it to be for the good of that Our Kingdome, that you graunt unto our trusty and weill-beloved Counsellour, Sir William Alexander, who hath a purpose to procure a forraine plantation, and to his heirs, and assignees, or to anie other that will joine with him in the whole or any part thereof, a Signatour under Our Great Seale of ~~such~~ lands *the sayds* lying between New England and Newfoundland as he shall designe ~~more~~ particularly unto you, to be holden of Us from Our Kingdome of Scotland as a part thereof united therewith by anie such tenure and as freely as you shall finde Us to have formerly graunted in the like case here, or that you shall think fitt for the good of the said plantation, with as great privileges and favours for his, and their benefite both by sea and land, and with as much power to him, and his heirs, and their deputyes, to inhabite, governe, and dispose of the said lands as hath at anie tyme beene granted by Us heretofore to anie of Our subjects whatsoever for anie forraine plantation, or that hath been granted by anie Christian Prince of anie other kingdome for the like cause,' &c.

Immediately consequent to the receipt of this Letter Sir William Alexander obtained by Royal Charter under the Great Seal of Scotland, bearing date the 10th of September 1621. a grant of the whole of the country of Nova Scotia, with the hereditary Government thereof as the Locum Tenens of the British Crown. The Charter farther invests Sir William Alexander, his heirs, and assignees, with plenary power to colonize the country, erect towns, appoint officers, coin money, administer justice, &c; reserving however to King James 1st, his heirs and successors, 'all places, privileges, prerogatives, pre-emiinences and precedencies whatsoever, given, granted, and reserved, or to be given granted and reserved, to the said Sir William Alex-

‘ander, and his heirs, and assignees, Lieutenants of the said country of Nova Scotia, on behalf of the Knight Baronets, and remanent portioners and associates of the said plantation.’

On the passing of this Charter under the Great Seal, Sir William Alexander took seisin of Nova Scotia, and thereafter proceeded to found and establish a colony in it. With reference to the interest which King James I. took in the plantation, and the intention entertained by him of erecting for its furtherance, the Order of Baronets in Scotland; he addressed the following letter to the Lords of the Privy Council:—

‘James R.

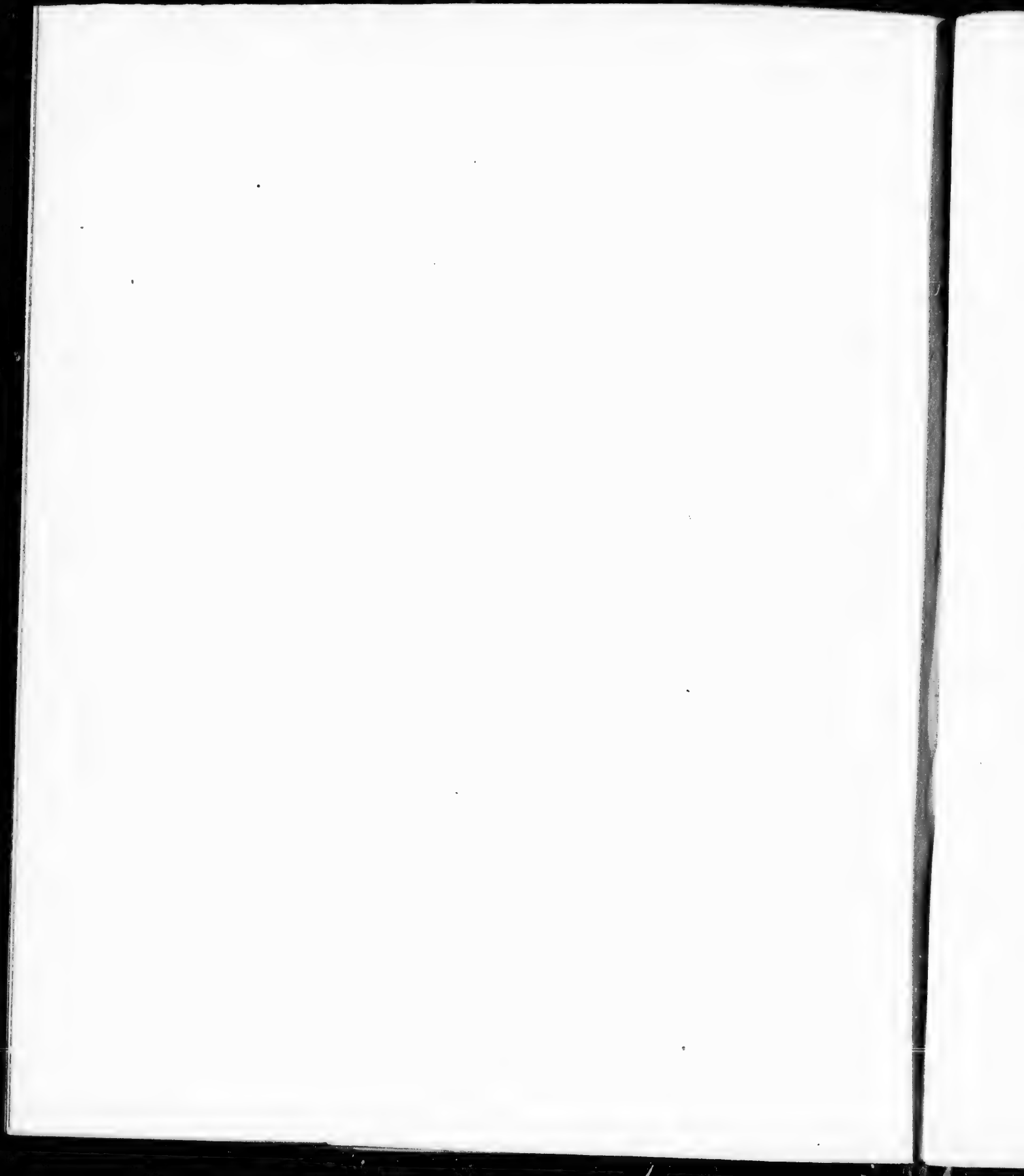
‘Right trustie and weill-beloved Counsellours, right trustie and weill-beloved Cousens and Counsellours, and trustie and weill-beloved Counsellours,—We grete you weill. The letter you sent, giving us thanks for renewing of the name of that our ancient Kingdome within America, intreating our favour for the furthering of a plantation there, wes verie acceptable unto us, and reposing upon the experience of utheris of our subjects in the like kinde, We are so hopefull of that enterprise, that we purpose to make it a worke our owne. And as We were pleased to erect the honour of Knight Baronets within this our Kingdome of England, for the advancement of the plantation of Ireland, so We doe desire to conferre the like honour within that our Kingdome (of Scotland)\* upon suche as are worthie of that degree, and will agree for ane propertoun of ground within New Scotland, furnishing furth such a number of personis as shall be condescended upoun to inhabite there. Thus shall bothe these of the cheife sort, (avoyding the usual contentions at publick meetings,) being by this hereditarie honour preferred to others of meaner qualitie, know their owne places at home, and likewyse shall have their due abroad from the subjects of our other countryis, according to the course appointed for that our ancient Kingdome; and the mentioning of so noble a cause within their Patents, shall both serve the more by suche a singular merite to honour them, and by so goode a ground, to justifie our judgment with posteritie. But though the conferring of honour be merely regall, and to be done by Us as we please, yet We could proceed in no mat-

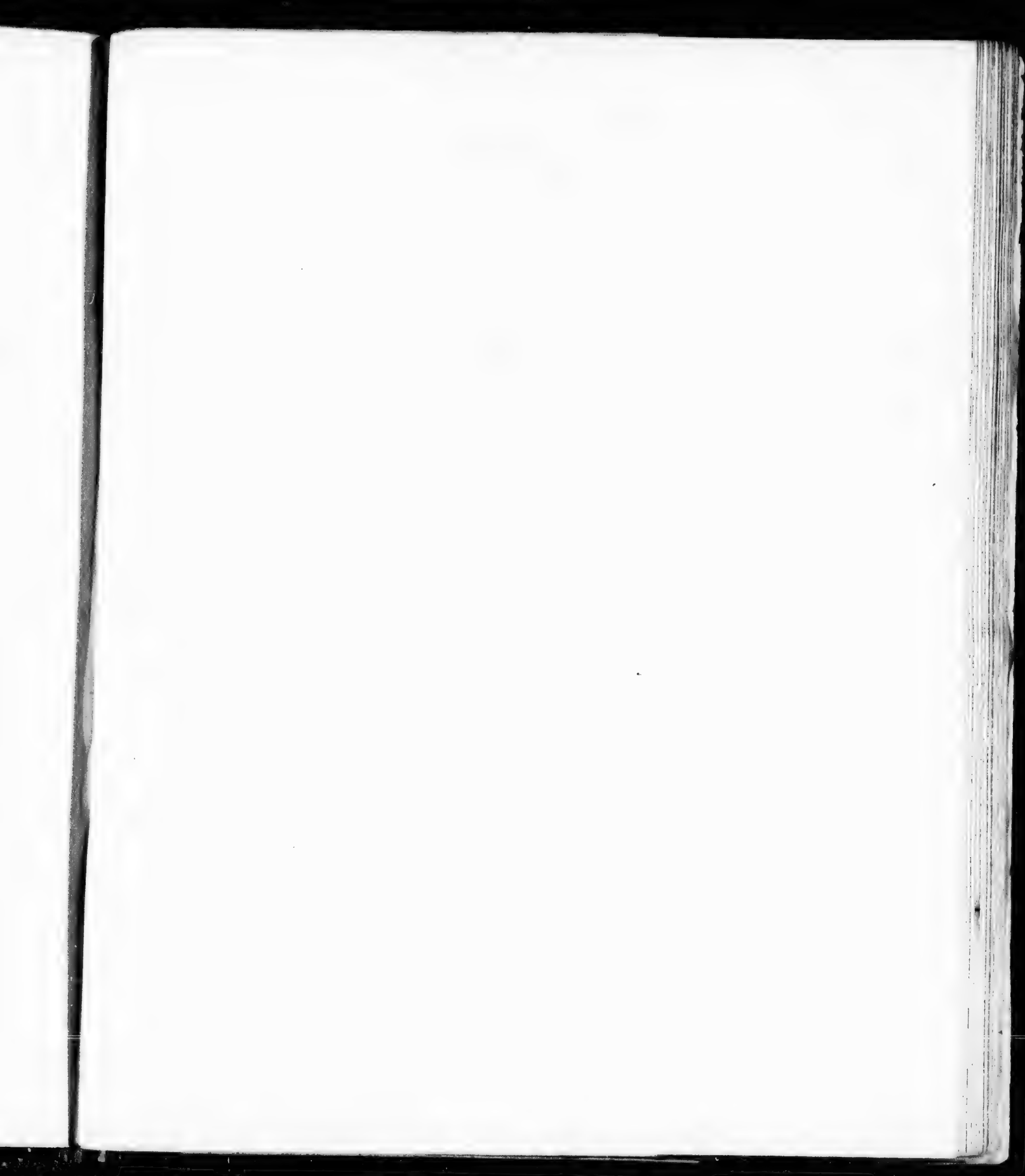
\* NOTE.—It is quite an error to suppose that the Nova Scotia Baronets are an Order different from the Ulster Baronets. The whole Baronets, of whatever creation, are branches of the institution erected by King James I., and his Charter of 1611 is the *foundation Charter* of the Order. The printed work referred to in this letter, is ‘THREE PATENTS CONCERNING THE HONOURABLE DEGREE OF BARONET,’ which was published in 1616 by King James’ command. It is a highly distinguishing circumstance for the Baronetage which cannot be said of any other dignity in the Realm, that it was instituted by a Monarch (and that the first,) of the British Empire.

e said  
s, and  
l, Sir  
reafter  
refer-  
ation,  
rther-  
e fol-

right  
rustie  
The  
ne of  
our  
ccep-  
ris of  
nter-  
nd as  
ithin  
the  
like  
ne as  
toun  
om-  
bite  
ding  
ere-  
now  
due  
g to  
the  
both  
and  
itie.  
l to  
nat-

Order  
are  
the  
FREE  
d in  
one-  
by a





[illegible]

lowin

- ing
- affect
- Maj
- exce
- Whe
- our a
- resol
- der
- graci
- impo
- blie w
- none
- birth,
- mation
- licklie

ter of suche moment without your advyce. Our pleasure is  
 having considered of this purpose, if ye find it as We conceive  
 it to be, both fitt for the credit of that our Kingdome, and for  
 the furtherance of that intended plantation, that ye certifie Us  
 your opiuione, concerning the form and conveniencie thairof,  
 together with your farther advyce what may best advance this  
 so worthie worke, which We doe very much affect, but will  
 use no means to induce onie man thereunto, farther then the  
 goodnes of the business, and his owne generous dispositione shall  
 perswade. Neither do We desire that onie man shall be sent  
 for, or travelled with by you for being Baronet, but after it is  
 founde fitt, will leave it to their owne voluntarie choice, not  
 doubting (however, some for want of knowledge may be averse)  
 but that there will be a greater number than We intend to  
 make, of the best sorte, to embrace so noble a purpose; whereby,  
 bothe they in particular, and the whole natione generally, may  
 have honour and profite. And We wishe you rather to thinke  
 how remedies may be provyded against onie inconveniences that  
 may happin to occur, then by conjecturing difficulties to loose  
 so faire and unrecoverable occasion, which other nations at this  
 instant are so earnest to undertake. And for the better direct-  
 ing of your judgement, We have appointed ane printed copie  
 of that order quilche was taken concerning the Baronets of this,  
 our Kingdome (of England,) to be sent unto you, as it was pub-  
 lished by authoritie frome Us.\* So, desiring you to haste back  
 your answer, that We may signifie our further pleasure for  
 this purpose, We bid you fairweill. From our Courte at  
 Roystoun, the 18th day of October, 1624.

To this letter, the Lords of the Privy Council made the fol-  
 lowing reply:—

Most Sacred Soverane,

We have considerit Your Majestie's letter concern-  
 ing the Baronets, and do thereby persave Your Majestie's great  
 affection towards this your ancient Kingdome, and Your  
 Majestie's most judicious consideration, in making choise of so  
 excellent meanes, both noble and fitt, for the good of the same.  
 Wherein, seeing Your Majestie might have proceedit without  
 our advyce, and unacquainting us with Your Majestie's royall  
 resolution therein, we are so muche the more boundin to ren-  
 der unto Your Majestie our most humble thankses for Your  
 gracious respect unto us, not only in this, but in all other things  
 importing this estate, either in credite or profite. And we hum-  
 blie wisse that this honour of Baronet should be conferrit upoun  
 none but upoun Knights and Gentlemen of cheife respect for their  
 birth, place, or fortunes; and we have taken a course by procla-  
 mation to mak this your Majestie's gracious intention, to be pub-  
 licklie known, that none hereafter pretending ignorance, take

B

\* See also *Some of the Tracts*. Lond. 1809  
 vol. 2. p. 12. et seq.

' occasion inwardlie to compleyne as being neglected, but may  
 ' accuse themselfis for neglecting of so fair ane opportunitie.  
 ' And whereas we are given to understand that the countrey of  
 ' New Scotland being dividit in twa provinces, and eache pro-  
 ' vince in severall dioceses or bishoprikis, and each diocese in  
 ' thrie counteys, and eache countey into ten baronyis, everie  
 ' baronie being thrie myle long upoun the coast, and ten myle  
 ' up into the countrie, dividit into sex paroches, and eache  
 ' parochie contening sax thousand ackars of land, and that everie  
 ' Baronet is to be ane Barone of some one or other, of the saidis  
 ' baroneis, and is to haife therein ten thousand aikeris of pro-  
 ' pertie besydis his sax thousand aikeris belonging to his burgh  
 ' of baronie, to be holdeu free blanchie, and in a free baronie of  
 ' your Majestie, as the Barones of this Kingdom, for the onlie  
 ' setting forth of sex men towardis your Majestie's Royal Colo-  
 ' nie, armed, apparelld, and victualld for two years; and everie  
 ' Baronet payeing Sir William Alexander Knight ane thousand  
 ' merkis of Scottis money, only towards his past charges and en-  
 ' devoirs. Therefore our humble desire unto your Majestie is,  
 ' that care be taken by suirtie, actit in the bookis of Secret Council,  
 ' as was in the plantation of Ulster, that the said number of men  
 ' may be dewlie transported thither with all provisions necessar;  
 ' and that no Baronet be maid, but onlie for that cause; and by  
 ' some suche ane particular course onlie as your Majestie shall  
 ' appointe. And that articles of plantation may be sett forth  
 ' for encouraging and inducing all others who have habilitie and  
 ' resolution to transport themselfis hence for so noble a purpose.  
 ' Last, we so consave, that if some of the Englishe who are  
 ' best acquainted with such forrein interpreises, wald joyne with  
 ' the said Baronets heir, (as it is liklie the syker condition and  
 ' proportion of ground wald induce them to doe,) that it wald  
 ' be ane grite encouragement to the furtherance of that royall  
 ' worke quhilk is worth of your Majestie's care. And we doubte  
 ' not, sindrie will contribute ther help heirunto. So expecting  
 ' your Majestie's forder directions, and humblie submitting our  
 ' opinione of your Majestie's incomparable judgement, we hum-  
 ' blie tak our leave, praying the Almighty God to blisse your  
 ' Majestie with a long and happie reigne. From Edinburgh  
 ' the 23d of November, 1624, (sic subscribitur,) Geo. Hay,  
 ' Mar, St Androis, Mortoun, Linlithgow, Melros, Lauderdaill,  
 ' L. Airskine, Carnegie, B. Dumblane, A. Neper, S. Oliphant.'  
 Four months after the date of this letter, the Lords of the  
 Privy Council received another anent Baronets, to the following  
 purport, apparently from Prince Charles:—  
 ' Right trustie, and right wel-beloved Cosens and Counsellouris,  
 ' and right trustie and wel-beloved Counsellouris,—Whereas it  
 ' it hathe pleasit the Kingis Majestie, in favour of the planta-  
 ' tion of Nova Scotia, to honour the undertakeris, being of the

' ancientest gentrie of Scotland, with the honour of Baronets ;  
 ' and therein haif traisted and recommendit Sir Williame Alex-  
 ' ander of Menstrie to his Counsell to assist him by all lawfull  
 ' meanis, and to countenance the bussienes by thair authoritie.  
 ' In like manner, We do recommend the said Sir Williame, and  
 ' the business to your best assistance. Hereby declairing, that  
 ' We favour bothe the business, and the person that followeth  
 ' it, in suche sort that your willingnes to further it in all you  
 ' can, shall be unto Us verie acceptable service. So We bid  
 ' you hartelie farewell. From the Court at Theobalds the 17th  
 ' of Marche, 1625.'

Six days after the date of this letter, and more especially in  
 answer to the Lords of the Privy Council of the 23d November,  
 as before recited, His Majesty King James I. addressed them as  
 follows :—

' James R.

' Right trustie and wel-beloved Counsellour, right trustie and  
 ' wel-beloved Cousins and Counsellours, We greete you weele.  
 ' We persave, by your letters directed unto Us, what care you  
 ' haif had of that bussines whiche We recommendit unto you  
 ' concerning the creating of Knight Baronets within that Our  
 ' Kingdom of Scotland, for the plantation of New Scotland :  
 ' and are not onlie weele satisfied with the course that you haif  
 ' taikin thairin, but likewayes it doth exceedinglie content Us,  
 ' that We haif so happiely fund a meanis of expressing of Our  
 ' affection towards that Our ancient Kingdome as We find, by  
 ' the consent of you all, so muche tending to the honour and  
 ' proffite thairof. And as We haif begun so, We will continue  
 ' requiring you in like maner to persevere for the further-  
 ' ing of this royall work, that it may be brought to a  
 ' full perfection. And as you haif done weele to warne  
 ' the auncient gentrie by proclamatioun, assigneing thame a day  
 ' for coming in ; and that ye are carefull to secure that which  
 ' thay sould perform, Our pleasure is, to the end that this  
 ' business may be caried with the lesse noice and trouble, that  
 ' everie ane of thame that doeth intend to be Baronet give in his  
 ' name to Our trustie and wel-beloved Sir William Alexander,  
 ' Knight, Our Lieutennant for that enterprize ; or in case of his  
 ' absence, to Our trustie and wel-beloved Counsellour, Sir John  
 ' Scott, Knight. That one of thame, after the tyme appointit  
 ' by the proclamatioun is expyred, may present the names of the  
 ' whole number that ar to be created, unto thame whome We  
 ' sall appoynt Commissionaris for marselling of thame in due  
 ' order. And because it is to be the foundation of so grite a  
 ' work, bothe for the goode of the kingdome in general, and for  
 ' the particular enterest of everie Baronet who, after this first  
 ' protectionarie colony is satled for securing of the country, may

‘ the rather thairafter adventure for the planting of their owne  
 ‘ proportion, whiche by this meanis may be maid the more  
 ‘ hopefull. That the sinceritie of Our intencion may be sein,  
 ‘ Our further pleasure is, that if any of the Baronets shall chuse  
 ‘ rather to pay twa thousand merkis than to furnishe forth sax  
 ‘ men as is intendit, that then the whole Baronets mak choice of  
 ‘ some certain personis of their number to concurr with Our said  
 ‘ Lieutenant; taking a strict course that all the said money be  
 ‘ only applied for setting furth of the number intended; or at  
 ‘ least of so many as it can convenientlie furnishe. And as We  
 ‘ will esteeme the better of suche as ar willing to embrace this  
 ‘ course, so if ony do neglect the samine, and sue for ane other  
 ‘ degree of honnour heirafter, We will think that thay deserve it  
 ‘ the lesse, since this degree of Baronet is the next steppe unto  
 ‘ a farther. And so desirring you all to farther this purpose als  
 ‘ far as convenientlie you can, We bid you farewell. From our  
 ‘ Court at Theobaldes the 23d of Marche, 1625.’

This was the last letter which His Majesty James I. wrote to his Privy Council on the subject of the Baronets, for he died on the 27th of March following, without having been able to complete his intencion. On the 28th of May, however, in the same year (1625), his son and successor, King Charles I. elevated to the Baronetage,

Sir Robert Gordon of Gordon,  
 Sir Alexander Strachan of Strachan, and  
 Sir William Keith of Earl Marischal.

On the 29th of May he created,  
 Sir Duncan Campbell of Glenurchay Campbell,  
 Sir Robert Innes of New Innes, and  
 Sir John Wemyss of New Wemyss.

On the 30th of May,  
 Sir David Livingston of Dunipace Livingston, and  
 Sir William Douglas of Douglas.

On the 14th of July,  
 Sir Donald Macdonald of Macdonald, and

On the 19th July,  
 Sir Richard Murray of Cockpool.

Of this last date His Majesty addressed a Letter from Windsor Castle to the Lords of the Privy Council, in which, after greeting them, he says:—‘ Understanding that Our late dear  
 ‘ Father, after due deliberation for furthering the plantation of  
 ‘ New Scotland, and for sundrie other goode considerationes, did  
 ‘ determene the creatting of Knight Baronets thair, and that a  
 ‘ proclamation wes maid at the Mercat Croce of Edinburgh to  
 ‘ gif notice of this his royall intencion, that those of the best  
 ‘ sort knowing of the same might haif tyme to begin first and be

owne  
more  
e sein,  
chuse  
th sax  
ice of  
r said  
ney be  
or at  
as We  
e this  
other  
erve it  
unto  
ose ala  
n our

ote to  
ed on  
le to  
n the  
evat-

d

ind-  
after  
lear  
n of  
did  
at a  
n to  
best  
i be

'I  
'a  
'P  
'v  
'I  
'g  
't  
'S  
'P  
'B  
'a  
'a  
'b  
'in  
'd  
'sc  
'in  
're  
'ti  
'fe  
T  
des  
gen  
162  
Mu  
any  
'to  
'ex  
'su  
'en  
'cl  
'wi  
're  
'Si  
'in  
'he  
'sai  
're  
'sta  
'Ba  
'lib  
'gra  
'sai  
'ses  
Th  
thus  
Nova  
Baro

‘preferred unto otheris, or than want the said honour in their  
 ‘awne default; and understanding likewise that the time ap-  
 ‘pointit by the Council for that purpose is expyred, We, being  
 ‘willing to accomlishe that whiche wes begun by Our said deare  
 ‘Father, haif preferred some to be Knight Baronets, and have  
 ‘granted unto thame signatures of the said honour, together with  
 ‘three miles in breadth, and sex in length, of landis within New  
 ‘Scotland for their severall proportionis. And now that the saidis  
 ‘plantations intendit there, tending so muche to the honour and  
 ‘benefite of that our kingdome, may be advanced with diligence,  
 ‘and that preparacionis be maid in due tyme for setting furth  
 ‘a colonie at the next spring, to the end that those who are to  
 ‘be Baronets, and to help thereunto, may not be hindrit by com-  
 ‘ing unto Us for procuring their grants of the saidis lands and  
 ‘dignitie, bot may haif them there with lesse trouble to them-  
 ‘selves and Us, We haif sent a Commission unto you for accept-  
 ‘ing surrenderis of lands, and for conferring the dignitie of Ba-  
 ‘ronet upon suche as shall be found of qualitie fitt for the same,  
 ‘till the number appoynted within the said Commission be per-  
 ‘fected.’

This Commission, which His Majesty in the letter just quoted, desires the Lords of his Privy Council to expedite with all diligence through the Seals, bears date, ‘Holyrood House, 25 July 1625.’ It is addressed to the Chancellor Mar, Huntly, Marshall, Murray, Wyntoun, and Linlithgow, and it empowers them, or any six of the Privy Council, with ‘full authority, and commission to meet at such times, days, and places, as they shall think expedient, and there to hear the petitions of His Majesty’s subjects who intend the said plantation, and are willing to embrace the same, and to confer, make, and thereupon conclude with them to receive resignations of all lands lying within the country of New Scotland which shall happen to be resigned in their hands as His Majesty’s Commissioners, by Sir William Alexander, or his lawful procurators in his name, in favour of any person or persons, and to give and grant new heritable infeftments under the Great Seal of His Majesty’s said Kingdom, (viz. of Scotland,) to those to whom the said resignations are granted of the said lands, and of the degree, state, order, dignity, name, honour, title, and style of Knight Baronet, with such like privileges, prerogatives, immunities, liberties and others, whatsoever, which are granted, and to be granted, in the Charters already passed to the Baronets of the said Kingdom, made by His Majesty to be enjoyed and possessed heritably as an especial token of his royal favour.’

The Charters of the constituent members of the Order, were thus made the general Charters of the Baronets of Scotland and Nova Scotia. These constituent members were the ten senior Baronets created from the 28th of May to the 19th of July

1625, whose names have been mentioned. The Charters, with the exception of names, dates, and places, are nearly word for word the same; and farther, they are similar in all respects to the Charters of the Baronets created down to the 31st of July 1637; after which the rights and privileges of the Order were conferred in general, and shorter terms.\*

Between the erection of the Order in 1625, and the end of 1628, sixty Baronets had been created. On the 18th of November in this latter year, the following letter was addressed to King Charles I., by the Lords of his Privy Council:—

‘ Most Sacred Souerane,

‘ We have been petitioned in name of some interested  
‘ in New Scotland and Canada, holden of Your Majestie’s Croune  
‘ of this Kingdome, humbly shewing, that by vertue of rights  
‘ of lands made unto theme by Your Majestie, or by Sir Wil-  
‘ liam Alexander, Your Majestie’s lieutenant of these boundis,  
‘ they have already adventured some of money, for setting  
‘ furth a colonie to plant there, and intending, God willing, to  
‘ prosecute the same. And that they understand that by reason  
‘ of a voyage made by ane Captain ——— thither this last  
‘ sommer, there are some making suite to Your Majestie for a  
‘ new Patent of the said landis of Canada, and of the trade there-  
‘ of, to be holdin of Your Majestie’s Croune of England, which,  
‘ in our opinioun, will prove so derogatorie to this Your ancient  
‘ Kingdome, under the Great Seal whereof, Your Majestie hes  
‘ already granted a right to the said bounds, and will so exceed-  
‘ ingly discourage all undertakers of that kynde, as we cannot  
‘ but at their humble suite represent the same to Your Majestie,  
‘ humbly intreating that Your Majestie may be graciously  
‘ pleased to take this into Your Princelie consideration, that no  
‘ right may be hereafter graunted to the said landis, contrarie to  
‘ Your Majestie’s said preceding graunt. But that they may  
‘ be still holdin of the Croune of this your ancient Kingdome,  
‘ according to the purport and true intention of Your Majestie’s  
‘ said former graunt. And we are verie hopefull that as the said  
‘ Sir Williame Alexander has sent furth his sonne with a colonie  
‘ to plant there this last year, so it sall be seconded heerafter by  
‘ manie other undertakers of good worth, for the advancement of  
‘ Your Majestie’s service, increase of your revenewis, and honour  
‘ of this, your said ancient Kingdome. And so, with the con-

\* Of the date 12th of July 1625, His Majesty King Charles 1st, was pleased by a Charter of *Novo-damus*, under the Great Seal, to confirm to Sir William Alexander the grant of Nova Scotia made by his late Royal Father; reserving in it all the rights and privileges made in favour of his associates in the Plantation, and remanent Portioners of it, the Baronets

tinuance of our most humble services, and best prayeris for  
 Your Majestie's health and happiness, we humbly take leave,  
 as Your Majestie's most humble and faithfull servants. (Sub-  
 scribed) Mar, Menteith, Hadintoun, Wintoun, Lenlithgow,  
 Lauderdaill, Tracquair, A. Carre, Arch. Achesoun, Advocate  
 Clerk Register, Sir George Elphinstoun, Scottistarvett. Haly-  
 ruidhous, 18th November 1628.

What reply His Majesty made to this letter does not appear,  
 but on the 17th of November in the year following, His Majesty  
 addressed a letter from Whitehall to the Lords of his Privy  
 Council, in which, after mentioning that Sir William Alexander  
 his lieutenant, had now in end settled a colony at Nova Scotia,  
 where his eldest son, Sir William, was then residing, he adds:—  
 And We being most willing to afford all possible meanes of  
 encouragement that convenientlie We can. to the Baronets of  
 that our ancient Kingdome, for the furtherance of so good a  
 worke, and to the effect they may be honored, and have place  
 in all respects according to their patents from Us, We have  
 been pleased to authorise, and allow, as by these presents for  
 Us and our successors We authorise and allow, the said lie-  
 tenant and Baronets, and everie one of them, and their heirs-  
 male, to weare and carie about their neckes in all time coming,  
 ane orange tannie silke ribban, whereon shall heing pendant  
 in a Scutcheon *argent*, a saltoire *azur*, thereon ane scutcheon  
 of the Armes of Scotland, with ane imperiall Croune above the  
 scutcheon, and encerled with this motto, *Fax Mentis Honestæ*  
*Gloria*; which cognizance our said lieutenant shall delyver now  
 to them from Us, that they may be the better known and dis-  
 tinguished from other persons. And that none pretend ignorance  
 of the respect due unto them Our pleasure therefore is, that by  
 open proclamation at the Marcat Croices of Edinburgh, and all  
 other head boroughs of our Kingdome, and such other places  
 as you shall thinke necessar, you cause intimate Our royall  
 pleasure and intencion herein, to all our subjectis. And if any  
 persoun out of neglect or contempt, shall presume to tak place or  
 precedence of the said Baronets, their wives or children, which  
 is due unto them by their patents, or to weare their cognoissance,  
 We will, that upon notice thereof given to you, you cause  
 punishe such offenders by fynyng and imprisoning them as you  
 shall thinke fitting, that others may be terrified from attempting  
 the like. And We ordain, that from time to time, as occasion  
 of granting and renewing their patents, or their Heirs succeed-  
 ing to the said dignitie, shall offer, that the said power to them  
 to carie the said ribban and cognoissance, shall be therein par-  
 ticularlie granted and insert. And We likewise ordaine these  
 presents to be insert and registrat in the books of Our Council  
 and Exchequer; and that you cause registrat the same in the books  
 of the Lyon King at Arms and Heralds, there to remain *ad*

'*futuram rei memoriam* ; and that all parties having interesse may have authentik copies and extracts thereof. And for your so doing, these Our letters shall be unto you, and everie one of you, from time to time, your sufficient warrant and discharge in that behalffe. Given at Our Court of Whythall, the 17th of November, 1629.'

On the 31st of July, in the year follow- (1630) the Charters of King James I. and King Cha the Barons of Scotland and Nova Scotia, and a the Barons of the Privy Council thereanent, were approved and confirmed by the Parliament of Scotland. The following is a copy of the act in question :—

Apud Holyrood House ultimo die mensis, Julii 1630.

'The Estates presentlie convened, all in one voice, ratifies, allows, approves, and confirms the Dignity and Order of Knight Barons, erected by His Majesty, and his late deare Father of blessed memorie, and conferred by them on sunarie gentlemen of good qualitie, for their better encouragement and retribution of their undertakings in the plantation of New Scotland ; with all the acts of Secret Council and Proclamations following thereupon, made for maintaining of the said dignity, place, and precedencie due thereto, to continue and stand in force in all time coming ; and that intimation be made hereof to all His Majesty's lieges by open Proclamation at the Mercat Cross of Edinburgh, and other places needful.

'The Estates presentlie convened, having duly considered the benefit arising to this Kingdom by the accession of New Scotland, and the successful plantation already made there by the gentlemen undertakers of the same. In regard whereof, and that the said lands and territories of New Scotland are by the patent thereof made in favour of Sir William Alexander of Menstrie, Knight, His Majesty's Secretary, annexed to the Crown, therefore the said Estates, all in one voice, have concluded and agreed that His Majesty shall be petitioned to maintain his right of New Scotland ; and to protect his subjects undertakers of the said plantation in the peaceable possession of the same ; as being a purpose highlie concerning His Majesty's honour, and the good and credit of this His ancient Kingdom.' (Acts of Parl. vol. 5th, p. p. 223 and 4.)

The Charters of the constituent Barons of Scotland and Nova Scotia, thus ratified and confirmed by the Parliament of Scotland in 1631, and which, by King Charles I.<sup>st</sup> Royal Commission of the 25th July, 1625, for the admission of Barons, are constituted general instruments for erecting the institution on the basis of the original Charters and decrees of King James I.<sup>st</sup> in 1611, 1612, and 1616, contain clauses conferring upon each and all of the members of the Order the following rights and privileges.

interesse  
or your  
erie one  
scharge  
ne 17th

e Char-  
aronets  
edings  
firmed  
of the

330.  
ies, al-  
Knight  
father  
gentle-  
retri-  
Scot-  
is fol-  
place,  
rce in  
to all  
Cross

dered  
New  
re by  
reof,  
e by  
nder  
o the  
con-  
d to  
sub-  
sses-  
His  
ient

and  
t of  
om-  
ets,  
tion  
I,<sup>st</sup>  
ach  
and

l  
v  
u  
t

o  
le

b  
de  
D  
B  
m  
ha  
su  
tra

' h  
' in  
' c  
' c  
' to  
' o  
' th  
' w  
' an  
' la  
' ce  
' ed  
Jam  
F

Nov  
25th  
right  
recita  
“

' hon  
' min  
' acti  
' nity

\* Th  
that the  
coming,

**I. DIGNITORIAL :—**The hereditary title of Baronet, which is a name, state, rank, stile, dignity, and honour, mean in place betwixt the degrees of a Baron of Parliament, and a Knight; with all and singular the privileges, insignia, &c. which, by the usual rules, custom, and laws for place, precedence, privilege, &c. to such a name, state, rank, stile, dignity, and honour, appertains.\*

The following are the operative words in the Royal Charters of King James I. and King Charles I. conferring these privileges :—

“**VOLENTES**, et per **Presentes concedentes**, pro nobis **Hæredibus**, et **Successoribus nostris**, quod **predictus A— B— et Hæredes sui masculi prædicti**, **Nomen**, **Statum**, **Gradum**, **Stilum**, **Dignitatem**, **Titulum**, **Locum**, et **Præcedentium prædictum BARONETTI**, cum omnibus et singulis privilegiis, et cæteris, præmissis successive gerant et habeant, et eorum quilibet gerat et habeat; quodque idem **A— B—**, et **Hæredes sui prædicti**, successive, **Baronetti in omnibus teneantur**, et ut **Baronetti tractentur**, et reputentur.”

(Cha. Jacobi, 22 Mai. 1611.)

“And Our will and pleasure is,—And We do for us, our heirs, and successors, hereby further grant and appoint, that if any doubts or questions not hereby, nor by any of our recited letters-patents cleared and determined, doe or shall arise concerning any place, precedence, privilege, or other matters, touching or concerning the same Baronets, and the heirs-male of their bodies, and their wives, their eldest sons and their wives, their daughters, their younger sons, and their younger son's wives, or any of them, such doubts or questions, shall be decided and settled by and according to such usual rules, custome, and lawes, for place, precedence, privilege, or other matters, concerning them, as other degrees of dignity hereditary, are ordered and adjudged.”—(Final Decree and Establishment of King James, 1616.)

Further, the Charter of the premier Baronet of Scotland and Nova Scotia, made by King Charles I. Royal Commission of the 25th July, 1625, for the admission of Baronets, the basis of the rights and privileges of the Order generally, after the following recital :—

“Considering that virtue and industry at first promote to honours and pre-eminences and thereafter that generous minds are animated and excited to attempt and pursue noble actions and designs, and that all splendor of honour and dignity has its origin and increase from the King as the first

\* The Charters of the constituent Baronets of Scotland and Nova Scotia, contain clauses that they shall “have rank and precedence before all Baronets whatsoever at any time coming, to be made by King Charles I. his Heirs and Successors.”

‘ fountain, to whose majesty and pre-eminence it properly belongs to erect and institute new titles of honours and dignities, as that from which primarily honours originally emanated, and willing from that consideration, that our most noble progenitors and predecessors, worthy of eternal memory, be imitated who had the power, and reduced it to practice, of creating and erecting new dignities and degrees among their subjects worthy of such honours; We of our royal power and authority, have erected, created, appointed, constituted, and ordained, and by our present Charter for us, our heirs, and successors, out of special grace, favour, certain knowledge, proper motive, and deliberate mind, with advice and consent of our well-beloved cousin and counsellor, John Earl of Mar, Lord Erskine and Gareoch, &c., High Treasurer, Comptroller, Collector and Treasurer of our new augmentations of our Kingdom of Scotland, and of our beloved and familiar Counsellor, Sir Archibald Naper of Merschingtoun, Knight, our Deputy in the said offices, as also of the Lords of our Privy Council of our said Kingdom of Scotland, make, erect, constitute, create, and ordain a certain hereditary state, degree, name, order, dignity, and style of Baronet, now and in all time coming, within our said Kingdom of Scotland and region of Nova Scotia, to have and enjoy to such persons as We, our heirs and successors, for the increase and extending of the plantation of Nova Scotia, and otherwise for their worth and merit, are about to make Baronets, and prefer to such degrees and styles.’

Contains a clause as follows,—

‘ And further,—if any doubt or question not resolved in these presents, arise concerning any place, precedence, or prerogative, due to the foresaid A—— B——, and his heirs male, wives, sons, daughters, and son’s wives, respectively; or any one of them, at whatsoever time to come, that such doubts and questions shall be determined and decided by the use and practice of custom and law, as other hereditary degrees of dignity are ordained and directed concerning place, prerogative, and precedence.’

From these Charters then, Baronets, like the other degrees of hereditary dignity, are entitled to have

1st, An honorary style; viz. “*the Honourable*,” which by parity of right, and sequence of gradation, is the appropriate style of the sixth degree of dignity hereditary,\* that of “*Right*

\* A Barony of Regality entitled its possessor anciently, to the style of “*The Honourable*,” the Baronets, therefore, of Scotland and Nova Scotia, could claim this style in virtue of their grants in Nova Scotia, which were each erected into free Baronies of Regality. Independent of this right, they could claim the style of “*The Honourable*,” as lesser Barons. At the period of the erection of the Order, “*Right Trustee*,” which is equivalent to “*Right Honourable*” now, was the style given by the Crown to Earls and

*Honourable*," being the style of the fifth, fourth, and third degrees of dignity hereditary; "*Most Honourable*" that of the second; and "*Most Noble*" that of the first.\*

2d. Personal ornaments;—viz. a *Coronet or Cap of Dignity*, for the head, with a *Robe and Dress of Estate* for Court, and other State, occasions; with a difference correspondent with those which prevail amongst the other degrees of hereditary dignity.

3d. Armorial insignia;—viz. *Supporters*, with a *Coronet or a Cap of Dignity* surmounting the shield.†

Barons; and instances occur of Letters from King Charles I. to the Baronets of Scotland and Nova Scotia, in which he styles them "*Trustie*," which is equivalent to "*Honourable*." The most satisfactory evidence can be produced from deeds, commissions, Lenses, receipts, monumental inscriptions, dedications, and other writings, shewing that the Baronets, whether of Ulster or Nova Scotia, enjoyed the style of "*The Honourable*," during the 17th and 18th centuries.

\* The appropriate mode in addressing a Baronet either in speaking or writing, is "*Your Honour*,"—in the same way that in addressing a Baron, the style is "*Your Lordship*." In speaking of a Baronet in a debate in Parliament, or at any public meeting, or occasion, he ought to be spoken of not as "*the Honourable Baronet*" who spoke last, &c.,—but as "*the Noble Baronet*" who spoke last,—a Baronet being a Nobleman as much as a Baron, Earl, or Duke.

† SUPPORTERS, &c.—The right of Baronets, of all creations, to bear Supporters, and a Coronet, or Cap of Dignity, a Robe, &c. is their Charter as a degree of hereditary nobility, next in place to that of a Baron of Parliament. It would have been *infra dig.* the crown to particularize, in a Charter passing under the Great Seal of the nation, every little et cetera which was to form the paraphernalia of this new order. These were matters for heralds, tailors, and others, to determine. Accordingly, the order of Baronet, like the order of Viscount, was declared to be a degree of Hereditary Dignity in the Realm, leaving it (as expressly enjoined in King James First Royal Charter of 1616, and especially set forth in every diploma of the Nova Scotia Baronets) to the usual rules, custom, and laws by which, in such matters, the five first degrees of nobility have been regulated, to regulate the sixth. Nevertheless, the heralds (of England at least) contend that Baronets are not entitled to Supporters, Coronets, Robes, &c. Can they produce any tenure under which Viscounts have had Supporters, Cornets, and Robes, &c. assigned to them except their Charter as the fourth degree of Hereditary Dignity? It is said by some that the Baronets of Scotland and Nova Scotia are not entitled to bear Supporters, but only such as were Barons. This is denied. Barons never were a degree of Hereditary Dignity in Scotland; they never had rank above Knights of the Thistle; they never had rank above Knight-Bannerets of the secondary creation; they never had rank above Equites Aurati or Knights; they never had rank above Milites, or Bachelors. Baronets have rank above these five degrees; and three of them Knights of the Thistle, the Knights-Bannerets of the secondary creation, and the Equites Aurati, have, from time immemorial, borne Supporters, Robes, and Cinguli, or open Circulets of Gold, which latter, as worn by Barons, Earls, &c. and since closed on the top with crimson velvet, are now called Coronets. To assign Supporters, therefore, as was done two months ago in the case of Sir William Houston, Bart. on the pretence that he was entitled to them on the ground that his ancestors were Barons of Scotland, is to postpone the right that he had to them as a Baronet of the Realm, to pretensions founded on a rank five degrees under that of his hereditary

The Patents of many Baronets contain grants of particular Supporters, others have clauses to the following effect:—‘Cum-que generalitate Presentium omnibus ritebus et solemnitatibus simili occasione propriis usitatisque, per Presentes dispensamus, Leoni porro Armorum Regi, ejusque fratribus fecialibus, ut prefato A— B— ejusque hæredibus masculis antedictis, Insignia Armoria, seu prioribus insignibus ADDITAMENTA, quæ hac occasione convenientiæ redebantur, dent et præscribant pariter imperamus.’ In addition to which the Patent of each Baronet confers the dignity with the same privileges and prerogatives respectively, as any Baronet in former times have enjoyed them, or in any future time may enjoy them.

Upon the strength of this particular clause the Baronets of Scotland and Nova Scotia are privileged to have for clasps on their Robes of Estate two silver pigeons, with imperial crowns, and the symbol, ‘*Candoris premium Honor*,’ their Majesties, King William and Mary, having conferred the right of wearing the same on a member of the Order, Sir James Dunbar, Bart. of Mochrum, in the year 1694; the following being the clause in question,—‘St atuimus et ordinamus dictum Jacobum Dunbar, ejusque antidict. habere omni tempore futuro pro sustentatoribus sui Paludamenti,\* duas columbas argentei coloris, im-

dignity of Baronet, and two degrees under that of his personal dignity of Eques Auratus, in virtue of both of which dignities he was privileged to bear them. Many Baronets of Scotland bear their Supporters by what is called *pot* law or tenure; that is to say, they got them from the Lord Lyon at an entertainment given to celebrate their creation, without incurring the dues of office for matriculating them;—others bear the Supporters worn by their ancestors prior to their elevation;—and all are entitled to assume what Supporters they please. In a word, and once for all, the Baronets created under the Great Seal of Scotland, as regards dignitorial insignia, or territorial prerogatives, are each and every one entitled to be assimilated to one another; whilst the order as the sixth degree of hereditary dignity is entitled to be assimilated to the other five degrees of hereditary dignity, with reference to Supporters, Coronets, Robes, &c. &c. The English heralds contend, because the Baronets created under the Great Seal of England and Ireland, are privileged to charge their coats-armorial with the Royal Arms of Ulster, they were not intended to have any other heraldic insignia, whilst some heraldic writers suppose that the Ribbon and Badge of Nova Scotia, granted in 1629, was intended to supersede the privilege given to the Baronets created under the Great Seal of Scotland, of augmenting their coats-armorial with the Royal Arms of Nova Scotia. Both of these suppositions are absurd. The Baronets are entitled to add to their paternal arms the ‘*additamenta*’ suitable to their dignity; which word *additamenta* is a plural word, comprising all the insignia which, by the laws, custom, and rules of place, precedency, privilege, &c. to hereditary honours belong. The Baronets, after death, may lie in state, and have two supporters of the body at their funerals, with a train of attendants to bear up their Pall or Robe. But doubtless, the heralds will maintain, that there is no analogy between these privileges and walking in state, while in life, having Supporters to the Arms, or wearing a Robe!

\* The English Heralds, in their Report on the Claims of the Ulster Baronets, deny that their Charters entitle them to Robes of Estate, or that there is any analogy estab-

icular  
Cum-  
atibus  
amus,  
as, ut  
dictis,  
quæ  
ibant  
each  
orero-  
oyed

ts of  
os on  
owns,  
sties,  
uring  
rt. of  
ause  
Dun-  
sten-  
im-

uratus,  
ets of  
, they  
with-  
worn  
oport-  
Seal  
every  
ree of  
dig-  
con-  
, are  
not  
that  
e the  
nting  
s are  
suit-  
nsig-  
itary  
rs of  
But  
and

eny  
tab-



‘periali corona, proprie coloris, conspicua rediuntur, cum hoc simbolo, ‘*Candoris premium Honor.*’

In addition to the armorial insignia above mentioned, the Baronets of Scotland and Nova Scotia are privileged, in order to commemorate the objects of the institution, to charge their coats-armorial with the arms of Nova Scotia, to be borne either on a canton or inescutcheon at option; the following is the clause granting this distinction:

‘And that the said A—— B——, and his heirs-male, shall, and forever henceforth, may have and carry on a canton in their coat of arms, or inescutcheon at their pleasure, the arms of the Realm of Nova Scotia; which are *Argent*, the arms of our Kingdom of Scotland, on a cross of St Andrew *Azure*, supported by the Royal Unicorn on the dexter side, and by a Salvage *proper* on the sinister; and for crest, two hands conjoined, the one naked, the other mailed, with a Laurel branch and Thistle issuing between; and the motto, ‘*Munit hæc, et altera vincit.*’

In addition to the rights and privileges above enumerated which the Baronets of Scotland and Nova Scotia are privileged to enjoy and possess *quo* Baronets, or lesser Barons, they are also entitled by the Charters of the institution to be created Equites Aurati, or Knights, and to possess and enjoy the privileges, the pre-eminences, and the ornaments of that ancient and splendid degree of personal dignity.

One year subsequent to the erection of the BARONETAGE, on the occasion of a controversy of precedence between the younger sons of Peers and Baronets, King James 1st by a royal decree (1612,) arranged the order of precedence, and at the same time decreed as follows:—

‘And now though the precedent declaration doth clearly rid all questions arising upon the letters patents, yet His Majesty having upon the occasion of this controversy, and hearing of some of the Baronets grievances propounded out of their own mouths, considered more maturely upon all points the latitude of their patents, His Majesty being resolved (as out of his own royal mouth it pleased him to declare unto them,) to amplify his favour, especially where it meets with those so well-born, and well deserving gentlemen, (this dignity being of His Majesty’s own creation, and the work of his hands,) His Majesty is therefore graciously pleased, (not content with those marks of his favour which already they enjoy by the

lished between them and the other degrees of hereditary dignity in this respect. The above degree clearly establishes that Baronets are entitled to Robes; and this is farther proved from an ancient heraldic drawing in the Advocates Library, Edinburgh, in which Sir Robert Sinclair, Bart. and Sir Charles Aresken, Bart. are portrayed in Robes. There is also a print of the first Baronet of Pinkie, in a Cap of Dignity adorned with jewels, not much dissimilar to the ancient Cap of Maintenance, which the Baronets wish to have assigned to the Order instead of a Coronet.

‘ words of their patent, which layeth such a mark of dignity  
 ‘ and precedence upon them and their posterity,) farther, to  
 ‘ strengthen and adorn His Majesty’s gracious favour with the  
 ‘ addition of the privileges, pre-eminences, and ornaments en-  
 ‘ suing, 1st, His Majesty is pleased to Knight the present  
 ‘ Baronets that are no Knights; and 2d, His Majesty doth also  
 ‘ by these presents of his mere motion and favour promise and  
 ‘ grant for him, his heirs, and his successors, that such Baronets,  
 ‘ and the heirs male of their bodies, as hereafter, shall be no  
 ‘ Knights, when they shall attain, or be of the age of twenty-  
 ‘ one years, after knowledge thereof given to the Lord Cham-  
 ‘ berlain of the household, or Vice Chamberlain, for the time  
 ‘ being, or in their absence, to any other officer attending upon  
 ‘ His Majesty’s person, shall be Knighted by His Majesty’s  
 ‘ Heirs and Successors.’

His Majesty King Charles I. when he extended to Scotland the Order of Baronets, erected, to quote the Act of Convention of Estates ratifying the dignity, ‘ by His Majesty. and his late  
 ‘ dear Father of blessed memory, and conferred by them upon  
 ‘ sundrie gentlemen of good qualitic, for their better encourage-  
 ‘ ment and retriution of their undertakings in the plantation of  
 ‘ New Scotland,’ he based it, as has already been shewn, upon the  
 Charters of 1611, and the Royal Decrees of 1612 and 1616, instituting the Baronetage. Accordingly, the constituent Baronets of Scotland were created Knights and Baronets, the operative words in each diploma being in terms similar to the following:—‘ *Damus, concedimus et conferrimus, in dictum A—B— et hæredes masculos, titulum, dignitatem, gradum, et honorem MILITIS BARON-  
 ‘ ETTI,*’ &c. The diplomas of each of the Baronets, as will afterwards be shewn, contain clauses rendering these conjoint dignities and degrees descendable in the Order for ever.

All Baronets, therefore, in virtue of their secondary title, are entitled to have and enjoy, in addition to all the privileges and pre-eminences of their higher dignity, the following rights, ornaments, and insignia:—

1st Personal:—*A dress of estate*, consisting of a suit of green; a *scarf*, of the colour of the family livery, semeé with the principal figures of the coat-armorial in gold; a *belt* similarly ornamented; a *sword*; *gold spurs*; a *thumb ring*; a *cap and plume* for the head, &c.

Also the ancient *Collar of S.S.*, a decoration which was first conferred upon the Order of Equites Aurati, by King Henry V., at the Battle of Agincourt, and is specially permitted to be worn by Knights, by the statute made by King Henry VIII. in the 24th of his reign, cap. 13, entitled ‘ an Act for the Reformation of Apparel.’

2d Armorial:—The privilege of surmounting the coat-armo-

rial with an *open helmet*; of exteriorly surrounding it with the *collar of S.S.*; and the pennon of the National Saint.

The rights and privileges of the Order of Equites Aurati, or Knights, which is the most ancient degree of Knighthood in Christendom, were formally recognised by King James I. on his accession to the throne of England. In a special commission granted by him for the creating of Knights of the Bath, and Knights at his coronation, on which occasion 300 were created, it is provided as follows:—

JAMES, by the Grace of God, King, &c. to all men greeting, know ye, &c. that 'every person advanced or made Knight by 'Our Commissioners, shall have hold and enjoy the said Order 'of Knighthood, with the name, dignity, and all the prerogatives 'thereunto belonging, in as large and ample a manner as any 'other Knight or Knights of like degree, being made in the time 'of any of our progenitors, have, and of right ought to have had, 'or enjoyed. In witness whereof, witness Ourselves at Westminster, this 22d of July 1603.\* (Nichol's Royal Progresses of James I., Vol. 1st.)

By the Royal Decree of King James I. in 1612, by which the Baronetage was amplified, and the Letters-Patent of the Baronets of Scotland and Nova Scotia, which contain corresponding clauses, the Baronets further enjoy the privilege of having 'place 'in the King's Armies, in the centre near and about the Royal 'Standard, for the defence of the same, and are allowed 'two 'assistants of the body to support the pall at their funerals, a 'principal mourner and four assistants, being the mean between 'a Baron and a Knight.'

Baronets also, in virtue of their hereditary dignity, enjoy at the Universities, by their statutes, much the same privileges as the other degrees of nobility; they are privileged to the *entree* at Court, and to walk in their place, between Lords of Parliament and Knights, in all Coronations, and other Royal or State processions.†

The dignity of Baronet being a hereditary degree, also ennobles the families of the members of the Order:

\* This Commission is given in Rymer's *Foedera*, Vol. xvi page 533.

† It is recorded by Sir William Dugdale in his History of St Paul's Cathedral, that in a Royal Procession made by King James I., on the 22d of March, 1620, the Baronets were ranked in the ceremonial as under:—

- Knights of the Bath;
- Knights Embassadors; Lord President, and Deputy;
- Vice-Admiral; and Knight Marshal;
- Treasurer of the Exchequer; and Master of the Jewel House;
- BARONETS;
- Baron's and Viscount's Younger Sons;
- &c. &c.

The wives of Baronets are Baronesses, and are entitled to the style of Lady, Dame, or Madam, respectively, according to the mode of writing or speaking; and they have rank and precedence before the wives of Bannerets of the royal creation, and the wives of all other Knights of whatsoever degree.\*

The Eldest Sons of Baronets are entitled to Knighthood after attaining the age of twenty-one, which was the age in former times at which a person was considered capable of bearing arms, and doing Knight's service.

The operative words in the Charters conveying this right are these:—

1st. 'His Majesty doth also, by these presents of his mere motion and favour, promise and grant for Him, his Heirs, and Successors, that such Baronets, and the Heirs-male of their bodies as hereafter, shall be no Knights, when they shall attain, or be of the age of twenty-one years, after knowledge thereof given to the Lord Chamberlain of the Household, or Vice-Chamberlain, for the time being, or in their absence to any other officer attending upon his Majesty's person, shall be Knighted by His Majesty's Heirs and Successors.' (King James I. Royal Decree, 28th May, 1612.)

2d. 'Insuper ex specialibus nostris gratia favore, certa scientia, mero motu, et animo deliberato, tenore Præsentis Cartæ Nostræ pro Nobis, Heredibus, et Successoribus nostris, cum avisamento ~~Regni~~ *Concilio*, Volumus, Concedimus, Ordinamus Declaramus, et Promittimus, quod quocunque tempore, et quamprimum Filius natus maximus, et apparens Hæres-masculus, dicti A— B— (Baronetti) vel Filius natus proximus, aut Hæres apparens masculus quorumcunque Hæredum Masculorum ipsi succedentium, venerint ad ætatem viginti-unius annorum, quod ipsi, et unusquisque eorum respective, per Nos, Hæredes, et Successores nostros, Milites inaugurabuntur, quandoque ipsi, vel eorum aliquis hujusmodi Ordinem requisiverint, absque solutione mercedum et expensarum quarumcunque.†

*See Knights*

\* The Baronesses of Scotland and Nova Scotia are privileged to attach to their arms whatever ornaments or badges belong to the dignity, as the Baronetage is an hereditary honour. Further, they may not only surround their arms with the Orange Riband and Badge, but may also wear them on their person, in the same manner as Peers wear the ensigns belonging to their dignity.

† The Eldest Sons of such of the constituent Baronets as happened to be of age when their fathers were created, were Knighted. Sir Robert Gordon in his Genealogy of the House of Gordon, at page 395, remarks,—'The Lairds of Cluny and Lesmore were created Baronets; and James Gordon (Lesmore's Eldest Son) was Knighted according to the tenor of his father's patent, whereby the Eldest Sons are to be Knighted at the age of twenty-one.' Prior to the Act of Union in 1707, His Majesty's Commissioner to the Convention of the Estates used to Knight the Sons of such Baronets as applied for it.

The younger Sons and Daughters of Baronets have respectively rank and precedence above the younger Sons and Daughters of all Knights of whatever degree; before the grandchildren of Peers; and all Commoners.

In addition to all the dignitorial rights, privileges, and insignia bestowed by King James I. on the Baronetage, the Baronets of Scotland and Nova Scotia have the special privilege of wearing an Orange Riband and Badge, in terms of the Royal Warrant of King Charles I. of the date 17th November, 1629, which has already been recited. This privilege, which partakes of the splendid prominence of the most noble Order of the Garter, and which, with the exception of that Order, was, at the period of the grant, the only decoration of the kind worn by any degree of dignity in the Realm, fell to the ground during the Revolution. From that period till the year 1775, it remained in disuse; when it was revived by the resolution of a General Meeting of the Order, held at Edinburgh on the 14th of June in that year.

II. Such are the rights, privileges, and insignia which the Baronets of Scotland and Nova Scotia are entitled to enjoy and possess in virtue of their hereditary dignity as Lesser Barons, and their personal dignity as Equites-Aurati. We now come to consider the rights and privileges annexed to their Territorial grants in Nova Scotia.

*1st, Territorial*;—A grant of sixteen thousand acres of land to be incorporated into a full, entire, and free Barony and Regality for ever, to be held of the Kingdom of Scotland in blench farm for payment yearly of one penny, if asked only; the said Regality to extend three miles in length amongst the sea coast, and six in length inland, with gifts of benefices, patronage of churches, fisheries, huntings, minerals, mines, pearls, jewels, offices, jurisdictions, and power of pit and gallows as plenary as had ever formerly been enjoyed by whatsoever noblemen under the Crown of Scotland; also with express power of planting the said Regality, and of transporting thence from Scotland, or any other parts, persons, goods, and chattels; with liberty to such persons, their children, and posterity, to have, hold, acquire, enjoy, and possess, all, and whatever, the liberties, privileges, and immunities of children, and natural born subjects of the Kingdom of Scotland, and the other dominions thereunto belonging, as if they had been born in the said Kingdom or dominions.

From Nesbit's Heraldry it appears, that in that day some of the Eldest Sons of Baronets assumed Knighthood without making application for it, which is properly designated as 'a mistake.' Of late no Eldest Sons of Nova Scotia Baronets have exercised their right to be Knighted; but there are several existing instances of the Eldest Sons of Ulster Baronets who have claimed and obtained Knighthood.

*2d, Seignorial*;—The right and liberty to erect cities, towns, villages, corporations, burghs of Barony, &c.; of making and appointing captains, commanders, leaders, governors, mayors, provosts, baillies, justices of the peace, constables, &c.; of making such particular laws, ordinances, and constitutions as shall be deemed expedient for the good order and police of the Regality, with the heritable justiciary and sheriff-ship of the same; the power of judging and decerning in all causes as well civil as criminal, within the bounds; of holding Courts of Justiciary, Sheriff Courts, Courts of Free Regality, and Baron, and Barony Courts; also of appointing their officers, and of exacting and appropriating all escheats, amercements, &c.; also of imposing and levying tolls, customs, anchorages, &c. &c.

*3d, Commercial*:—The right of erecting free ports, harbours, naval stations, &c., of building ships, craft, vessels &c. as well for war as merchandise; of importing and exporting from and to Scotland or any other country, wares, merchandizes, and commodities of whatever description, for payment of the sum of five pounds Scots money of custom for every hundred pounds only, without payment of any other custom, impost, or duty of any kind; also of imposing and exacting five pounds for every hundred, on all goods imported into Nova Scotia by the colonists, and ten per cent on all imported by foreigners.

*4th, Legislative*.—The right, either personally or by deputy, of a suffrage and vote in framing all and sundry the laws to be made concerning the public state, good, and government of the Realm of Nova Scotia, in all assemblies, parliaments, synods, councils, and conventions, to be called together, convened, or held for that end; and that no person or persons whatsoever, who shall not be heirs of the said Baronies of Regality, shall have vote or suffrage in whatsoever laws concerning the said Realm, without the advice, counsel, and consent of the Baronets.

*5th, Personal*:—Freedom from arrest, and exemption from all penalties and execution of the laws.

In addition to these rights and privileges, the said Charters empower the Baronets, 1st, if furth of the Kingdom of Scotland, to sit in the Scottish Parliament by deputy; 2d, gives to them, and those who colonize their Regalities in Nova Scotia, to be judged, ruled, and governed, in all time coming, in all cases, civil and criminal, by the laws of the said Realm of Nova Scotia only, and not by others; 3d, to have all and whatsoever privileges, liberties, permissions, commodities and immunities, profits, prerogatives, dignities and casualties, generally and particularly, that are specified and expressed in the original infestment granted to Sir William Alexander and his heirs, and that in as full, free, and ample manner and form, as if the said privileges, prerogatives, immunities, liberties, permissions, dignities, commodities, &c. with all the clauses and conditions, had been inserted at

full length in their patents; 4th, dispenses with non-entry, and taking seisen in Nova Scotia, and grants authority to have seisen and instruments of possession taken on the Castle Hill of Edinburgh, because the said Realm of Nova Scotia, and original infeftment thereof, is holden of the ancient Kingdom of Scotland, and forms part of the county of Edinburgh; 5th, promises that the said Charters, with all and sundry privileges, liberties, clauses, articles, and conditions as specified, should be ratified, approved, and confirmed, by the Parliament of Scotland, in order that they should have the strength, force, and effect of a decree and sentence of that supreme and pre-eminent tribunal; and lastly provides, that 'the said Charters are and shall be valid, sufficient and effectual, in all time coming, in all parts thereof, as set forth for ever to the said Baronets, their wives, sons, daughters, and son's wives respectively, and each of them, in law against King Charles I. his heirs and successors, and against all other persons whatsoever, in all His courts, and those of his heirs and successors, and in all other places whatsoever, at all times and occasions, notwithstanding whatsoever law, custom, prescription, practice, ordinance, or constitution hitherto made, ordained, or published; or hereafter at whatsoever time to be made, ordained, and published, or provided, and notwithstanding any other matter, cause, or occasion whatsoever.'

Such are the rights and privileges dignitorial and territorial, conferred upon the Baronets of Scotland and Nova Scotia, by the Charters of King James I. and King Charles I.

Up to the date 31st July, 1637, all the Baronets created by King Charles I., or under his commission of the 25th of July, 1625, had their grants of land and their boundaries, fully defined in their diplomas; and out of this number, 111 in all, 66 had seisen of their Baronies. From this latter date to the Union in 1707, all the Baronets created, whether during the reign of King Charles I. or by his successors, of whom nearly 100 representatives exist, had no grants of land in Nova Scotia given *per expressum*, but the rights of the institution were conveyed to them in shorter, and general terms.

There seems to be an impression that the Baronets created after 1637, stand on a different foundation from those created before that date. This is an error. The Baronetage was extended to Scotland for a specific object—the plantation of New Scotland, and King Charles I. bound himself, his heirs and successors, never to elevate any one to that dignity, except for this purpose. Every Baronet, therefore, created *under the Great Seal of Scotland*, whether before or after 1637, is entitled to the rights and privileges of the institution, whether dignitorial and territorial, in their complete extent. The only difference between the senior Baronets and the junior, is this, that the former got their grants of land, whilst the latter have still to get them.

With regard to grants of land, as far as the British Crown is concerned, it is a matter of importance to it, rather than otherwise, that the Baronets should have them. The whole of Nova Scotia was granted to the Stirling Family, subject to the condition that it should be portioned out amongst the Baronets, who, on the resignation of the Stirling Family, were to hold their Regalities of the British Crown. What interest then had, or has, the British Crown to alter, supposing that it was possible to do so, the constitution and objects of the institution? But this query can be answered equally by argument and by facts. Prior to this time the French had availed themselves of the circumstance, that Port Royal, for the perfecting of the agreement between King Charles I. and the French King, had been put into the state into which it was before the beginning of the war, to usurp Nova Scotia; Sir William Alexander, the first Earl's eldest son, who had visited the Colony, and reside for some years there in charge of it, had died; the first Earl, worn out with losses and disappointments was labouring under the malady which shortly carried him off; and the Revolution in England was rapidly coming to a head. Under these circumstances, the work of planting Nova Scotia was suspended, but there was no extinguishing of the rights of the Baronetage, nor any abandonment of its objects. As proofs of this, the diplomas of all the Baronets created after 1637, whether by King Charles I. or his successors, contain clauses conferring all, and singular, the prerogatives, privileges, and conditions, whatsoever, with no less extent of right in all respects, than those enjoyed by the Baronets created before 1637, under whatsoever law, custom, constitution, or commission. The following is a copy of the precepts of all the Baronets created by King Charles I. subsequent to 1637, with extracts from the diplomas of Baronets created in the years 1671, 1687, and 1694.

Preceptum Cartæ fact. per S. D. N. Regem A— B—, suisque Hæredibus Masculis super statu, gradu, dignitate, nomine, ordine, titulo, and stilo, Baronetti; cum omnibus et singulis, prerogativis, privilegiis, precedentiis, conditionibus, aliisque, ad dict. statum, gradum, dignitatem, nomen, ordinem, titulum, ac stilum, Baronetti, pertinen; cum prioritate et precedentia ante omnes Equites Auratos vulgo knights; Milites Bauchallaros, anglice Batchelors; Barones minores vulgo Lairds; et ante omnes Armigeros vulgo Esquires; et Generosos, Gentlemen appellat; except. Locum Tenens S. D. N. Regis, suosque Hæredes Masculos. Et quod Nati et Natæ dicti A— B— habebunt precedentiam ante natos et natas omnium personarum antequos dictus A— B—, suisque Hæredes Masculi, locum et precedentium sumere possunt. Quodque Filius natu-maximus, vel apparens Hæres Masculus, dicti A—B— aetatem viginti et unius annorum, ac ingente, Equites Aurati creabuntur, quandocunque aliquis eorum desidera-

own is  
r than  
whole  
subject  
st the  
amily,  
t inte-  
that it  
stitu-  
nt and  
selves  
f the  
had  
ng of  
the  
eside  
Earl,  
g un-  
volu-  
these  
ded,  
tage,  
e di-  
King  
and  
ver,  
pyed  
cus-  
r of  
sub-  
nets

,  
no-  
gu-  
ue,  
ac  
om-  
ice  
ge-  
pt.  
Et  
nte  
,  
nt.  
as,  
ji-  
ra-

bit, a  
antic  
appe  
*Lada*  
cond  
die n  
octav

' V  
' Fr  
' B-  
' ced  
' lib  
' wi  
' an  
' at  
' stil  
' fut  
(Dip

' fat  
' in  
' ho  
' qu  
' tut  
' cu  
Arc

' et  
' de  
' lit  
' ga  
' et  
' Ac  
' De  
rum

F  
Let  
was  
tion  
tuer  
shor  
Bar  
that  
trou  
ber  
sub

bit, absque ullis sumptibus. Et quod dictus A— B—, suique antidict. arma Novæ Scotiæ portabunt. Et quod dictus A— B— appellabitur *Dominus A— B— Miles Baronettus*; et ejus uxor *Lady, Madame et Dame*, cum quibusdam aliis privilegiis et conditionibus in dicto precepto content. Apud Stirling secundo die mensis Martii anno Domini millesimo sexcentesimo trigesimo octavo, et regni nostri anno decimo tertio.

Per Signetum.

‘ We, Charles II. by the Grace of God, King of Great Britain, France, and Ireland, &c.—give, grant, and confer on A— B—, and the Heirs-male of his body, the title, honour, pre- cedence, and dignity of Knight Baronet; with all the privileges, liberties, immunities, and advantages thereunto belonging; *with no less liberty and extent of right in all respects*, than any other Knight Baronet of our foresaid Kingdom of Scotland, at whatsoever time past they have obtained or enjoyed, and still possess, and enjoy, a similar title and dignity, or at any future period can, or may obtain, possess, or enjoy it.’—&c. (Dip. of Sir James Cockburn of that Ilk.)

‘ Jacobus II. Dei Gratia, &c. Constituimus et creamus pre- fatum A— B— ac Hæredes masculos, Milites Baronettos in perpetuum, cum singulis aliis privilegiis, immunitatibus, et honoribus, quibuscunque eo spectans, aut quæ per quascun- que Leges, Statuta, Consuetudines, Commissiones, aut Consti- tutiones quasvis in Dominiis hisce nostris eo spectare dignos- cuntur, uti, postiri, et gaudere Ordinamus,” &c. (Dip. of Sir Arch. Stewart of Barrow, 4th November, 1687.)

‘ Gulielmus et Maria Rex et Regina, &c. Damus, concedimus, et conferrimus in dictum A— B— et Heredes Masculos de ejus corpore, titulum, dig. itatem, gradum, et honorem Mi- litis Baronetti, atque adeo illum et illos, eodem titulo frui et gauderi, Ordinamus cum precedentia toto aliisque privilegiis, et immunitatibus, Militibus Baronettis, virtute quorumcunque Actorum, Statutorum, Diplomatum, seu Consuetudinum in Dominus nostris debitis.’ (Dip. of Sir James Dunbar of Moch- rum, 1694.)

From these extracts, then, it is clearly apparent that under the Letters-patent of King James I. and Charles I. the Baronetage was extended to Scotland for a specific object, viz. the planta- tion of New Scotland. In addition, the Charters of the consti- tuent Baronets contain a clause, promising that the number should never exceed 150;—and the commission for admitting Baronets, empower the Lords of the Privy Council to create to that extent. It is certain that the said Commissioners, from the troubles that arose in the Kingdom, did not complete this num- ber; but it was completed, and more than completed, under subsequent Monarchs. That nothing was said of grants in the

Charters of the latter creations, is easily to be accounted for from the circumstance, that these Baronets were created either during the usurpation of Nova Scotia by the French, or pending the negotiations which eventually to its restoration. That these latter Baronets were, however, created under the original institution of Nova Scotia Baronets, is clearly proved by the extracts just quoted, in which the liberties, immunities, and advantages of the institution are bestowed with no less liberty, and extent of right in all respects than had ever been conferred by any laws, statutes, customs, commissions, or constitutions. It is true the number of Baronets originally intended, 150, was exceeded,—but this is a matter by which the King's Locum Tenens, and the Baronets alone are aggrieved,—if the enlargement of the Baronetage can be reckoned such: but it would be a very ungracious act in the part of either of these parties to impugn the power of the Crown, to enlarge an order which was founded for purposes that consulted the honour and the weal of the Kingdom.

The country of New Scotland, or, as it is called in the Charters, the *Realm* of Nova Scotia, which was thus given to Sir William Alexander, afterwards Earl of Stirling, and his fellow portioners the Baronets of Scotland and Nova Scotia; comprises, 1st, Nova Scotia proper, 2d, New Brunswick, 3d, Gaspe, 4th, the Islands of Cape Breton, Prince Edward's, and Anticosti, &c. A territory situate between the 43d and 49th degrees of north latitude, and the 60th and 68th degrees of west longitude, and containing an area of upwards of sixty thousand square miles; being about 400 miles from north to south, by from 150 to 300 from east to west. It was annexed to the Crown of Scotland, as has already been shewn by King James I.<sup>st</sup> "out of the royal care which he had for the honour and weal of that his ancient Kingdom, that the use and benefit of it might arise to the same;" and it was further made a part of the County of Edinburgh for the greater ease and facility of taking seisin of it by infeftment.

From the erection of the Baronetage of Scotland and Nova Scotia in 1625 to the year 1631, the constituent members enjoyed their rights and privileges, dignitorial and territorial, according to the stipulated terms and conditions of the institution. Sir William Alexander having obtained a Charter of Novo-damus from King Charles I. on the 12th of July 1625, was vested and seised on the 29th of September following, and had forthwith taken possession of the country, and begun to settle a colony at Port Royal where he built a Fort. Up to the 10th of July in this latter year, seventy-seven Baronets had been created, who had each complied with the conditions of the Plantation, which was to furnish 2000 merks towards the undertaking, and they had each had grants assigned to them, some in Nova Scotia

proper, others in New Brunswick, and Anticosti, the bounderies of which can still be defined.

In the mean while favoured by the indolence of the English, and their want of attention to the improvement of their American acquisitions, the French in 1604, under the conduct of Champlain, a naval officer, had stolen up the gulf and river St Lawrence, and having settled at, and abandoned by turns, several places, they at last in 1608 founded Quebec, and obtained possession of the country thereafter called Canada. In 1627, two years after Sir William Alexander and his associates, the Baronets, had commenced planting Nova Scotia, King Charles I. having engaged to support the Huguenots, entered into a war with France, which continued to 1629. During this war, Sir David Kertk, of Dieppe, a Calvinist, having received the command of three English ships, sailed on an expedition against the settlers at Quebec, and compelled them to capitulate on the 19th of July 1629. In consequence of this aggression on the part of the English, the King of France detained 400,000 crowns, part of the Queen of England's dowry, and a misunderstanding arose which occasioned the following letter from King Charles I. to the Lords of his Privy Council :—

‘ Whitehall, 3d July 1630.

‘ Right trustie, &c. There being at this time some controversie between Us and the French, concerning the title of lands in America, and particularly New Scotland, it being alleged that Port Royal, where the Scottish colony is planted, should be restored as taken since the making of the peace by reason of the articles made concerning the same. As We are bound in dutie and justice to discharge what We owe to everie neighbour Prince, so We must have a care that none of our subjects do suffer in that which they have undertaken, upon just grounds, to do Us service, neither will We determine in a matter of so great moment till We understand the true estate thereof. Therefore our pleasure is, that you take this business into your consideration. And, because We desire to be certified how far We and Our subjects are interested therein, and what arguments are fit to be used when any question shall occur concerning the same, or the defence thereof, that after due information We may be furnished with reasons how We are bound to maintain the Patents that Our late dear Father and We have given. So expecting that having informed yourselves sufficientlie of this business, you will return Us an answer with diligence. We bid you farewell, &c.

On the 31st of July following the receipt of this letter, the dignity and order of Baronets was ratified and confirmed by the Parliament of Scotland; and upon the same occasion it was unanimously agreed, considering the benefit that would arise to

Scotland by the accession of New Scotland, and the successful plantation there begun, that His Majesty should be petitioned to maintain his right of New Scotland, and protect his subjects, undertakers of the said plantation in the peaceable possession of the same. On the 9th of September following, the Privy Council, in reply to the letter of King Charles I. as above, addressed His Majesty as follows:—

‘ Most Sacred Souerane,

‘ We have understood by your Majestie’s letter of the title pretendit by the Frenche to the lands of New Scotland, which, being communicat to the Estaits at thair last meeting, and they considering the benefite aysing to this kingdome by the accessioun of these lands to the Crowne, and that your Majestie is boundin in honnour carefullie to provyde that nane of your Majestie’s subjects doe suffer in that whiche for your Majestie’s service, and to their great charge they have warrantable undertaken, and successfullie followed out; we have thairupon presoomed, by order from the Estaits, to make remonstrance thairof to your Majestie. And on thair behalffe to be humble supplicants to your Majestie that your Majestie would be graciouslie pleased seriouslie to take to heart the maintenance of your royall right to these lands; and to protect the undertakers in the peaceable possessioun of the same, as being a business which touches your Majestie’s honnour, the credite of this your native Kingdome, and the good of your subjects enteressed thairin. Remitting the particular reasounis fitt to be used for defence of your Majestie’s right to the relatioun of Sir William Alexander, your Majestie’s Secretarie, who is intrusted thairwith, We humbly pray the Almighty, &c. Holyruidhous, 9th September, 1630. (Subscribitur) Mortoun, Wintoun, Lauderdale, Hamiltoun, Sir Thomas Hope, Scottistarvett.’

Notwithstanding the petition of the Scottish Parliament referred to, and the ratification of the Order of Baronets, probably in consequence of the retention by the French of the half of the Queen’s dowry, Sir William Alexander (now Viscount of Stirling) received the following instructions from King Charles I. on the 10th of July 1631, the year following:—

‘ Right trustie, &c. Whereas, there is a final agreement made betwixt us, and Our good brother the French king, and that amongst other particularities for perfecting thereof, We have condescended that Port Royal shall be put in the state it was before the beginning of the late war, that no partie may have any advantage there during the continuance of the same, and without derogation to anie preceding right or title, by virtue of any thing done either then, or to be done by the doing of that which We command at this time, it is Our will and pleasure, and We command you hereby, that with all possible

ccessful  
itioned  
bjects,  
sion of  
Coun-  
dressed

e title  
which,  
, and  
by the  
jestie  
your  
estie's  
e un-  
upon  
rance  
mble  
gra-  
ce of  
akers  
iness  
your  
essed  
l for  
liam  
air-  
ous,  
au-

re-  
bly  
the  
tir-  
I.

de  
at  
ve  
as  
ay  
ne,  
ir-  
ng  
ad  
le

V  
R  
co  
p  
er  
an  
of  
“  
“  
“ t  
“ n  
“ e  
“ l  
“ f  
“ u  
“ R  
“ b  
“ b  
“ c  
“ th  
“ co  
“ an  
“ b  
“ b  
*ne*  
“ su  
“ B  
“ co  
“ su  
“ tal  
“ If  
“ sh  
“ pla  
“ hir  
“ ma  
“ sha

'diligence you give order to Sir George Home, Knight, or any  
'other having charge from you there, to demolish the Fort which  
'was builded by your son there, and to remove all the people,  
'goods, ordinance, munitions, cattle, and other things belonging  
'unto that colonie, leaving the bounds altogether waste and un-  
'peopled as it was at the time when your son landed first, to  
'plant there by virtue of our commission.'

(Earl of Stirling's Register.)

In consequence of this letter, orders were transmitted by the  
Viscount of Stirling, for the removal of the colony from Port  
Royal, and the dismantling of the fortifications, which was ac-  
cordingly done, but as a proof that there was no intention on the  
part of King Charles I. to abandon the objects for which he had  
erected the Baronetage of Scotland and Nova Scotia, two days  
after the date of the above letter, He addressed one to the Lords  
of His Council, in which he says, 'Seeing We have seen by a  
'letter from you, the Order of Baronets, erected by Our late  
'dear Father and Us, for furthering the plantation of New Scot-  
'land, was approved by the whole Estates of our Kingdom at  
'the last convention, and that we understand, both by reports  
'that come from thence, and by the sensible consideration and  
'notice taken thereof by our neighbour countries, *how well the  
'work is begun*, Our right trustie and well-beloved Counsel-  
'lor, Sir William Alexander, our Lieutenant there, *having  
'fullie performed what was expected from him for the benefit  
'which was intended for him by the creation of these Baronets*.  
'Being very desirous that he should not suffer therein, but that  
'both he and others may be encouraged to prosecute the good  
'beginning that is made, as we heartilie thank all such as have  
'contribute their aid by contracting with him for advancing of  
'the said work alreadie, Our pleasure is, that you seriouslie  
'consider, either amongst you all, or by a committee of such as  
'are best affectioned towards that work, how it may be best  
'brought to perfection. *for we are so far* (whatsoever controversie  
'be about it) *from quitting our title to New Scotland and Ca-  
'nada, that we will be verie careful to maintain all our good  
'subjects who do plant themselves there, and let none of the  
'Baronets any way be prejudiced in the honour and privileges  
'contained in their patents, by punishing of all that dare pre-  
'sume to wrong them therein, that others may be encouraged to  
'take the like course.*' In this letter His Majesty further says,  
'If the said Sir William, as our Lieutenant of New Scotland,  
'shall convene the Baronets to consult together concerning the  
'plantation, We hereby authorise him, and will you to authorise  
'him, as far as is requisite for that effect, willing that Procla-  
'mation be made of what We have signified, or of what you  
'shall determine for furthering that work, whereof we recom-

'mend the care to you, as a matter importing specialle our  
'honour, and the good of that our ancient Kingdom.'

At a meeting of the Privy Council, held at Holyrood House, on the 28th of the same month, (July 1631) for the better forderance and advancement of the plantation of New Scotland, the Lords gave and granted 'Commission, to Thomas Earl of Haddington, Lord Privy Seal, George Earl of Wintoun, Alexander Earl of Linlithgow, Robert Lord Melvill, John Lord Traquair, Archibald Lord Naper, David Bishop of Ross, Sir Archibald Acheson Secretar, Sir John Hamilton of Magdalens, Clerk of Register, Sir Thomas Hope of Craighall, Knight Baronet Advocat, Sir George Elphinstoun, Justice Clerk, Sir John Scot of Scotistarvet, and Sir James Baillie, or anie five of them, without excluding of anie others of the Council who shall be present, to convene and meet with William Viscount of Stirling, and the Knight Baronets, at such times and places as the said Viscount should appoint, and to confer with them upon the best means for the fordering of the said plantations, and to make and set down overtures thereanent; and to present and exhibit them to the said Lords, to the intent they may allow or rectifie the same as they should think expedient.—On the 19th of February, the year following, (1632) His Majesty transmitted to the Lords of Council and Exchequer, a signature of £10,000 Sterling, in favour of Viscount Stirling, for compensation for the expenses incurred by dismantling Port Royal; and in a letter inclosing the warrant, His Majesty says, 'Lest any mistaking should ensue thereupon, we have thought it good to declare unto you that (as it may appear by itself) it is *no ways for quitting the title right and possession of New Scotland, or of any part thereof, but only for satisfaction of the losses that the said Viscount hath, by giving order for removing of his colony, at our express command, for performing of ane article of the treatie betwixt the French and Us. And We are so far from abandoning of that business, that We do hereby require you, and everie one of you, to afford your best help and encouragement for furthering of the same, chieflie in persuading such to be Baronets as are in qualitie fit for that dignity.*' &c. His Majesty further in a letter to the Lord Advocate on the 14th of June following, writes, 'Whereas, upon the late treatie betwixt Us and the French King, We were pleased to condescend that the colonie which was latelie planted at Port Royal in New Scotland, should be for the present removed from thence, and have accordingly given order to our right trustie, the Viscount of Stirling, our principal Secretarie for Scotland. Although by all our several orders and erections concerning that business, We have ever expressed that *We have no intention to quit our right, and title, to any of these bounds; yet in regard, our meaning perchance will not be sufficientlie understood by those our loving*

' subjects who hereafter shall intend the advancement of that  
 ' work, for their satisfaction therein, *We do hereby require you*  
 ' *to draw up a sufficient warrant for our hand, to pass under*  
 ' *our Great Seal, to our right trustie the Viscount of Stirling,*  
 ' *to go on in the said work whensoever he shall think fitting,*  
 ' *whereby for the encouragement of such as shall interest*  
 ' *themselves with him, and he may have full assurance from*  
 ' *Us, IN VERBO PRINCIPIS, that as we have never meant to re-*  
 ' *linquish our title to any part of that country which he hath*  
 ' *by patents from Us, so We shall hereafter be readie, by our*  
 ' *gracious favour, to protect him, and all such as have, or shall*  
 ' *hereafter at any time concur with him for the advancement of*  
 ' *the Plantation in these bounds aforesaid.*—(Earl of Stirling's  
 Register.)

These Letters of King Charles I. sufficiently testify his Majesty's anxiety that the Baronetage of Scotland and Nova Scotia, should realize the objects for which it was erected. This is further testified by the following Letter from His Majesty to the Baronets, dated from Beaulie, the 15th of August 1632.

' Trustie, &c.—Whereas our late dear Father, out of his pious  
 ' zeal for advancement of religion in the remote parts of his do-  
 ' minions, where it had not been formerlie known, and out of  
 ' His Royal care for the honour and weal of that Our ancient  
 ' kingdom, was pleased to annex to the Crown thereof, the do-  
 ' minion of New Scotland in America, that the use of it might  
 ' arise to the benefit of that kingdom; We being desirous that  
 ' the wished effects might follow by the continuance of so noble  
 ' a design, were pleased to confer particular marks of our favour  
 ' upon such as should voluntarilie contribute to the furtherance  
 ' of a plantation to be established in these bounds, as appeared  
 ' by Our erecting of that Order of Baronets, who with you are  
 ' dignified: whereunto We have ever since been willing to add  
 ' what farther we conceived to be necessarie for the testifying  
 ' our respect to those that are already interested, and for encour-  
 ' aging of them who shall hereafter interest themselves in the  
 ' advancement of a work which We so really consider for the  
 ' glorie of God, the honour of that nation, and the benefit that is  
 ' likelie to flow from the right prosecution of it. But in regard,  
 ' that, notwithstanding the care and diligence of our right trustie,  
 ' the Viscount of Stirling, whom We have from the beginning  
 ' entrusted with the prosecution of this work, and of the  
 ' great charges already bestowed upon it, hath not taken the root  
 ' which was expected; partlie, as We conceive, by reason of the  
 ' incommodities ordinarilie incident to all new and remote begin-  
 ' nings.—and partlie, as we are informed, by want of the timelie  
 ' concurrence of a sufficient number to assist in it; but, especial-  
 ' lie, the Colony being forced of late to remove, for a time, by  
 ' means of a treatie we have had with the French. Therefore,  
 ' having taken into our Royal consideration by what means again

‘ may this work be established ; and conceiving that there are  
‘ none of Our subjects whom it concerns so much in credit to be  
‘ affectioned to the progress of it, as those of your number, for  
‘ justifying the grounds of our Princelie favour, which you  
‘ have received by a most honourable and generous way,  
‘ we have thought fit to direct the bearer hereof, Sir Wil-  
‘ liam Alexander, Knight,\* unto you, who hath been an ac-  
‘ tor in the former proceedings, and hath seen the country  
‘ and known the commodities thereof, who will communicate un-  
‘ to you such propositions as may best serve for making the right  
‘ use hereafter of a plantation and trade in these bounds, for en-  
‘ couraging such as shall adventure therein.—And We doubt not,  
‘ but if you find the grounds reasonable and fair, you will give  
‘ your concurrence for the further prosecution of them. And as  
‘ We have already given order to Our advocate for drawing such  
‘ warrants, to pass under our Seals there, whereby our loving  
‘ subjects may be freed from all misconstruction of Our proceed-  
‘ ings with the French anent New Scotland, and secured of Our  
‘ protection in time coming in their undertakings with it, so We  
‘ shall be readie to contribute what We shall hereafter find We  
‘ may justlie do for the advancement of the work, and the encour-  
‘ agement of all that join with them to that purpose. Which  
‘ recommending unto your care, We bid you farewell.’ Eight  
‘ months after the date of this letter His Majesty wrote to the  
‘ Lords of Council (24th April, 1633) signifying his pleasure that  
‘ whensoever any of his subjects of England or Ireland should take  
‘ lands holden of Him in New Scotland, their patents should be  
‘ passed at as easy a rate as if they were natural subjects of Scot-  
‘ land; and saying that ‘hearing there was a rumour given out  
‘ by some that We have totallie lost our purpose to plant in Nova  
‘ Scotia, as having surrendered our right thereof, lest any further  
‘ mistaking should arise thereupon, We think good hereby to  
‘ clear our intention thereon, *which is, that our said Viscount,*  
‘ *with all such as shall adventure with him, shall prosecute the*  
‘ *said work, and be encouraged by all lawful helps thereunto, as*  
‘ *well by completing of the intended number of Knight Baronets*  
‘ *as otherways.*† (Earl of Stirling’s Register.)

His Majesty being in Scotland in the month of June following,  
(1633) on the 28th, the Parliament passed an Act, of which the  
following are clauses:—

‘ Our Sovereign Lord, and Estates of this present Parliament,

\* This was the Earl of Stirling’s son, who was for several years in Nova Scotia.

† As a proof of the integrity of the King’s intentions, and the fact that he had not  
abandoned his rights in Nova Scotia, from the 10th of July, 1631, when he wrote to the  
Viscount of Stirling ordering the demolition of the fort at Port Royal, and the removal of  
the colony from it, to the date, 1637, several Baronets were created, to whom were  
given grants of land in Anticosti and Cape Breton.

re are  
to be  
r, for  
a you  
way,  
Wil-  
an ac-  
untry  
e un-  
right  
or en-  
t not,  
lgive  
nd as  
such  
oving  
ceed-  
Our  
We  
We  
cour-  
hich  
ight  
the  
that  
take  
l be  
scot-  
out  
ova  
ther  
y to  
unt,  
the  
, as  
nets

ing,  
the  
ent,

not  
the  
al of  
were

je  
G  
R  
H  
E  
cl  
C  
of  
of  
A  
ter  
pu  
he  
em  
in  
tic  
the  
ets

I  
priv  
land  
163  
Anti  
The

‘ratifies and approves the Act of General Convention of Estates  
 ‘at Holy-rude House the sixth day of July, in the year of God,  
 ‘1630, whereby the said Estates have ratified and approved of  
 ‘the Dignities and Order of Knight Baronet, with all the Acts  
 ‘of Secret Council and Proclamations following thereupon, made  
 ‘for the maintaing of the said Dignity, Place, and Precedencie  
 ‘thereof.’

‘And his Majestie and Estates aforesaid Will, Statute, and  
 ‘Ordain, that the said Letters-patent and Infeftments, and the  
 ‘said Dignity, Title, and Order of Baronets, and all Letters-  
 ‘patent and Infeftments of Lands and Dignities granted there-  
 ‘with to any persons whatsoever, shall stand and continu in  
 ‘force, with all liberties, privileges, and precedencies thereof,  
 ‘according to the tenor of the same, and in as ample manner as  
 ‘if the bodies of the said Letters-patent, Infeftments, &c. were  
 ‘herein particularly ingrost and exprest, and ordain intimation  
 ‘to be made thereof by open Proclamation to all his Majestie’s  
 ‘lieges at the Market Crosse of Edinburgh, and other places  
 ‘needful, that none pretend ignorance.’

On the 14th of September in the same year, (1633) His Ma-  
 jesty, after his return to London, granted a Commission unto  
 George, Earl of Kinnoull, Lord Hay, &c. Chancellor, William,  
 Earl of Morton, Lord High Treasurer, and Thomas, Earl of  
 Haddington, Lord Privie Seal. William Earl Mareshall, Robert  
 Earl of Roxburgh, John Earl of Annandale, Sir John Hay,  
 clerk of His Majesty’s Registers, and Sir Thomas Hope of  
 Craighall His Majesty’s Advocate, for possessing of infeftments  
 of New Scotland; which commission, as appears from a minute  
 of council, they took upon them on the 15th of February 1634.  
 At this sederunt the Lords of the Council farther ordained let-  
 ters to be direct, charging officers of arms to pass and make  
 publication by open proclamation, at the market crosses of the  
 head burghs of the Kingdom, and other places needful, an Act  
 embodying the Letters of King Charles I. above quoted, express-  
 ing His Majesty’s intention to prosecute the work of the Planta-  
 tion of Nova Scotia, and to encourage it by all lawful helps  
 thereunto, as well by completing the intended number of Baron-  
 ets as otherways.

In consequence of the renewed ratification by Parliament in 1633, of the rights and  
 privileges of the Baronets, the appointment of the Commission for passing infeftments of  
 land in Nova Scotia, and the Proclamation consequent, between 1633 and the 31st July  
 1637, twenty-three Baronets were created, each of whom had grants of land, one in  
 Anticosti, the rest in Cape Breton, and eleven out of the number had seisen to their grants,  
 The only other Baronetries created by King Charles I. were

- 1638, Slingsby of Scriven.
- Peirs of Stoneypitts.
- Longueville of Wolner.
- Crawford of Jordanhill.

- 1638, Cooper of Gogar.  
 1639, Turing of Foveran.  
 1640, Meredith of Henbury.  
 1641, Pretymen of Loddington.  
 1642, Gordon of Haddo.  
 1646, Hamilton of Silvertonhill.  
 1648, Seton of Culbeg.

and they had the rights and privileges of the institution conferred in shorter and general terms. They do not appear to have obtained their locations, probably from the circumstance that the first Earl of Stirling died in 1640, when he was succeeded by his grandson, who was at that time a minor.

Whilst the Baronets, numbering in all (from the premier Sir Robert Gordon, created May 28th, 1625, to Seton of Culbeg, the last created by King Charles I., in 1648,) one hundred and twenty-two, of whom one hundred and eleven had grants, and sixty-six had seisen of the same, were thus secured in their rights and privileges, by repeated acts of the Crown and the Parliament of Scotland, during the period of twenty-three years; nevertheless shortly after Port Royal had been put (in compliance with Charles 1st's commands,) into the state in which it was before the beginning of the war, and on the assurance that no derogation to the rights and titles of those interested under the Charters to Sir William Alexander, should issue therefrom, the French from Quebec, and the district surrounding it, suddenly broke into the country of Nova Scotia, on the pretence of an unsupported right to the possession of it, by the treaty of St Germain, whereby it was not ceded at all, but only Port Royal commanded to be given up. The troubles of England, however, by which King Charles I. was beset from this period, till the termination of his reign in 1649, prevented his breaking with the French Court; and from the continuance of these troubles for many years, it is to be accounted for, why the French for so long a period were little molested in the occupation they took of the country, nor any effectual remonstrance made against their aggression.

The French maintained their usurped possession of Nova Scotia, with little or no molestation, until 1654, when, by command of Cromwell, military re-occupation of the country was taken by Col. Sedgwick. King Charles II., however, again in 1662, without the consent of Parliament, commanded it to be re-delivered to them, and under the treaty of Breda, in July 1667, the French alleged they were actually put again in possession of Acadia, comprehending Nova Scotia. The Settlers in New England, however, seized the first opportunity of a rupture, to force every place in their possession out of their grasp. In 1689, Great Britain declared war against France, when Sir William Phipps, on the 11th May 1690, reduced the garrison at Port Royal, which the French had rebuilt, and left the country in the possession of those who remained behind. On the 7th of October in the year following, (1691) King William and Queen Mary, by Charter to the inhabitants of the Province of Massachusetts Bay, granted to them all the lands and hereditaments lying and being in the country and territory commonly called Acadia, or Nova Scotia, for the purpose of asserting, keeping up, and preserving the right of the British Crown to the sovereignty of the country judging, which this act of sovereignty evinced, that the country had not been validly ceded by the treaty of Breda, but that the possession had by the French was deemed a violent, usurped, and vitious possession.

During the usurpation of Nova Scotia by the French, the territorial rights and privileges of the Baronets fell into abeyance. But that these rights and privileges were deemed valid and effectual is proved by the charters of the Baronets created by King Charles 2d. and James 2d. respectively, containing clauses granting *'all the privileges, liberties, immunities, and advantages belonging to the Order, with no less liberty and extent of right, in all respects, than those possessed by the other Baronets at whatsoever time*

past  
held  
P  
Brit  
tion  
henc  
doub  
leges  
and  
son  
for c  
as h  
of th  
been  
A  
and  
ed by  
crow  
also  
parts  
Af  
were  
was r  
first R  
prop  
sion,  
Counc  
Fren  
to des  
late G  
By  
sions  
King  
in like  
British  
usurpa  
of it.  
At  
in the  
and wa  
institut  
on fem  
Dovan,  
1831,  
jeaty, a  
Sheriff  
seisen o  
Edinbu

Un  
adopt

past created, or by whatsoever Laws, Statutes, Customs, Commissions, or Constitutions held or obtained.'

By the treaty of Ryswick, of the 20th September 1697, it was agreed between Great Britain and France, that matters should be placed in the same state as before the declaration of war. The sense which the British Crown entertained as to what was comprehended in the Treaty in respect to the country of Nova Scotia, was left by no means doubtful. King William created various Baronets, giving them all the rights and privileges possessed by the Order in virtue of whatever bygone Acts, Statutes, and Diplomas; and on the 27th of June, 1698, He re-granted and confirmed to Sir Robert Gordon, grandson of the patentee, and to a new series of heirs, the Barony of Gordon in Nova Scotia; for doing which the King could have had no pretence, if the country had been considered as having passed from under his right of feudal superiority or sovereignty, in consequence of the French usurpation, or had the rights of the Baronets to possessions in Nova Scotia been deemed lost.

At length the time arrived to fix the possession of Nova Scotia according to its original and inviolate title. The country, wheresoever it was occupied by the French, was reduced by Col. Fr. Nicholson; and the treaty of Utrecht, 11th April, 1713, confirmed to the crown of Great Britain for ever, 'Nova Scotia, comprehended in its ancient limits,' as also 'the city of Port Royal, (now called Annapolis Royal), and all other things in these parts which depended on the said lands.'

After this treaty it became a matter of dispute between Great Britain and France, what were the ancient limits of Nova Scotia. This, at the treaty of Aix la Chapelle in 1748, was referred to Commissaries, and was settled on the sole ground of the Charters to the first Earl of Stirling, which were produced, and contained in them the proofs of what property was in the Scottish crown at the time they were granted. Pending this discussion, a plan for the better peopling and settling of Nova Scotia was proposed to the Privy Council in England, and approved of by an order in Council, 7th March, 1749. But the French having renewed their encroachments in 1750, from which they refused peaceably to desist, it was totally reduced to obedience to the British crown in June 1755, by the late Governor, Major Charles Lawrence.

By the treaty of Paris, 10th February, 1763, the French finally renounced all pretensions to Nova Scotia, and guaranteed the whole of it, with all its dependencies, to the King of Great Britain. Its sovereignty was thus re-acquired by the British crown; and in like manner all the rights of the Stirling Family and the Baronets, the grantees of the British crown revived; for the possession of Nova Scotia by the French having been a usurpation, it created only a *suspension* of the property, and not an extinguishment of it.

At the peace of Paris in 1763, the rights of inheritance to the first Earl of Stirling was in the person of his great-great-grandson, John, 7th Earl. He died three years thereafter, and was succeeded by his brother Benjamin, 8th Earl. This nobleman did not live to institute proceedings for his rights in America, but died in 1768, when his titles devolved on females till 12th September, 1814, when Alexander, the present Earl of Stirling and Doon, succeeded by the decease of his mother. His Lordship completed his Titles in 1831, when having been proved heir to the property, he obtained a precept from His Majesty, as overlord, for giving him seisin of Nova Scotia. This precept was directed to the Sheriff of Edinburgh, who, on His Majesty's behalf, gave the Earl hereditary state and seisin of Nova Scotia, with its dependencies, on the 8th of July, 1831, at the Castle of Edinburgh, in the manner prescribed by the foundation Charters of the province.

Under these circumstances, the present Earl of Stirling having adopted proceedings for the restitution of his rights in Nova

Scotia and Canada, and the Baronets of Ulster having taken measures for the purpose of restoring the Baronetage to the original excellence of its institution, it is thought that the present time is peculiarly suitable for trying the question, whether the existing Baronets of Scotland and Nova Scotia have lost their rights of inheritance in the latter country?

From the previous statments then the following points may be considered as established :—

1st. That the Charters and Commissions of King Charles I. erecting the constituent Baronets of Scotland and Nova Scotia, entitles each member to a grant of sixteen thousand acres of land in Nova Scotia, to be erected into a free barony or regality ; together with the most important rights and privileges, seigneurial, commercial, and legislative. &c.

2d. That the Baronets created from the erection of the Order in 1625 to 1637, have each their grants defined in their Letters-patent.

3d. That the Baronets created from 1637 to the union in 1707, have each the rights and privileges of the institution, territorial and dignitorial, conveyed in general terms, by their Letters-patent.

4th. That of the whole members of the institution, sixty-six have had seisen of their grants, and been thus legally vested in their property.

5th. That the Charters of the constituent members of the Order, which by King Charles I. Royal commission are made the general Charters of the institution, contain special causes that the grants, dignitorial and territorial, shall be ' valid, sufficient and effectual in all time coming, in all points in law, in all the Kings courts, and in all other places, notwithstanding any law, custom, prescription, practice, decree, or constitution before made, decreed, or published, or afterwards at whatever time, to be made, decreed, and published, ordained, or provided.'

6th. That the said Charters, Commissions, and Letters-patent, &c. have been unanimously ratified, allowed, approved. and confirmed by two Parliments of Scotland ; the first held at Holyrood House on the 30th of July 1630, the second held at Edinburgh on the 28th of June 1633, His Majesty King Charles I. being himself present.

Considering the lapse of time that has ocured since the territorial rights and privileges of the Baronets of Scotland and Nova Scotia have fallen into desuitude, and that their grants of land have been occupied in the interval by settlers, we proceed to remove some of those objections which are supposed to interfere with their re-appropriation.

The 1st objection seems to be, that King Charles I.<sup>st</sup> by the treaty of St Germain, signed the 29th of March, 1632, ceded

taken  
to the  
pres-  
ether  
lost

y be

es I.  
otia,  
land  
to-  
rial,

order  
cers-

in  
ion,  
their

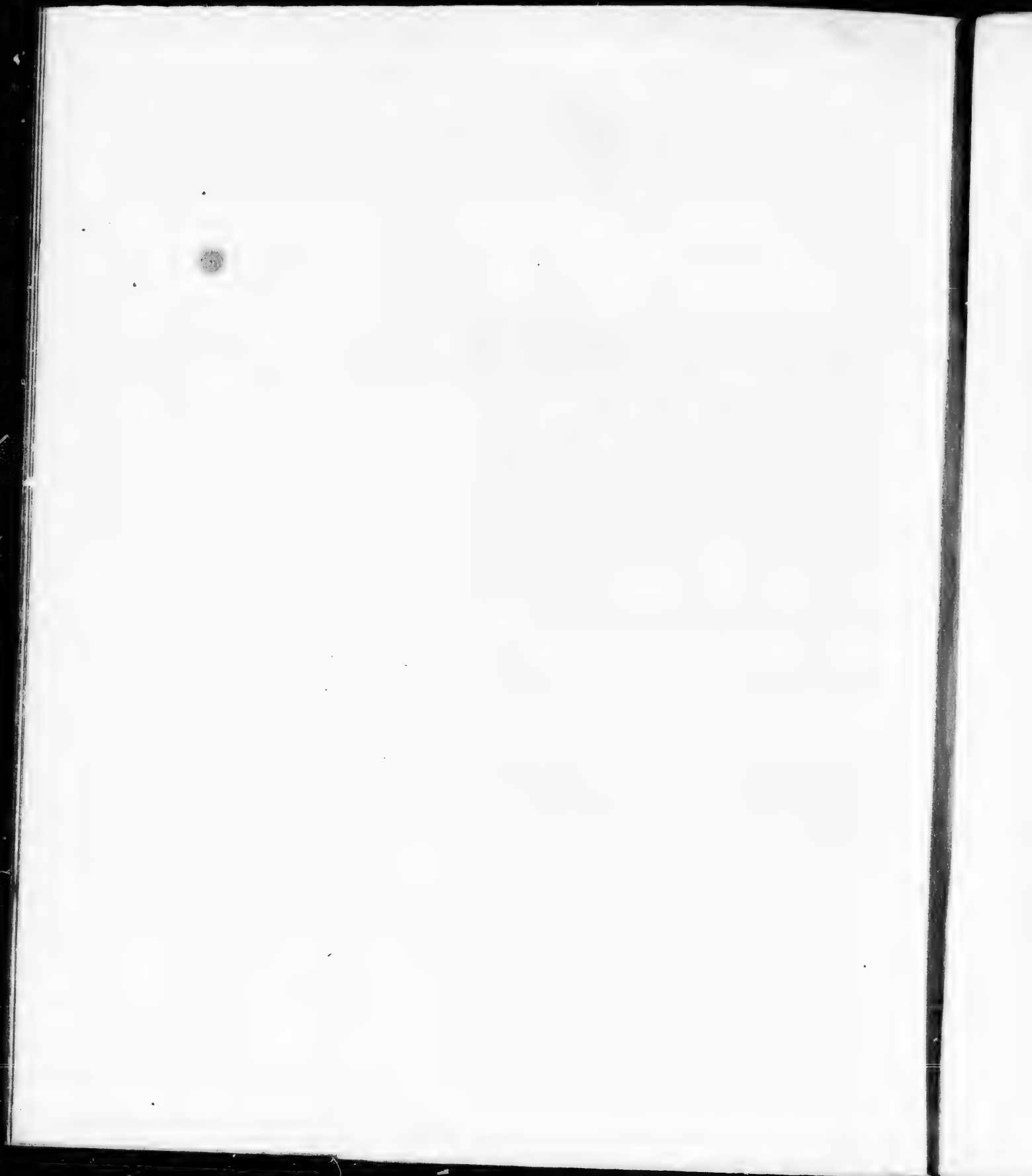
six  
in

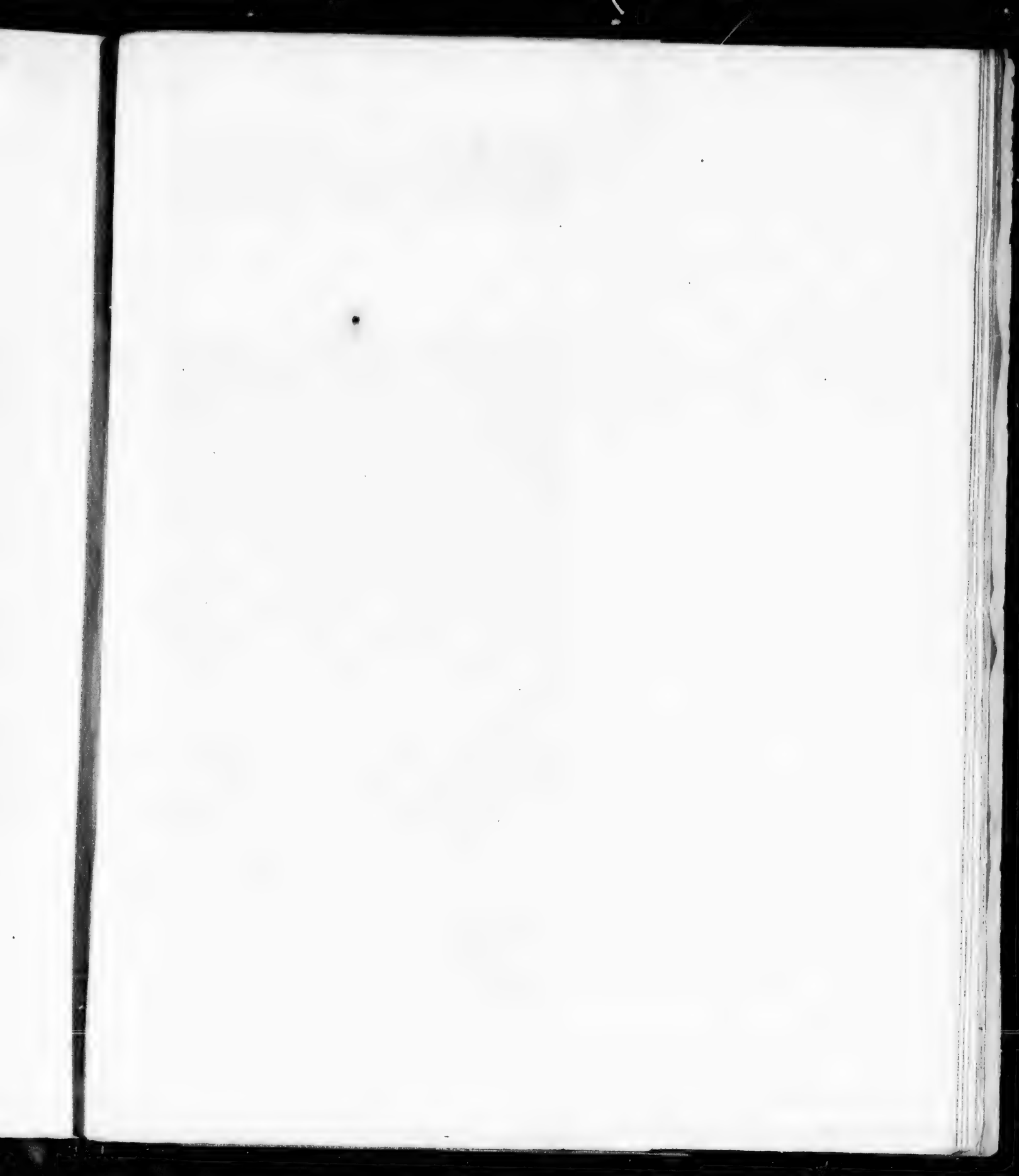
the  
ade  
ises  
ffi-  
aw,  
th-  
or  
rds  
in-

nt,  
on-  
ly-  
in-  
I.

ri-  
nd  
of  
ed  
r-

ne  
ed





the  
said  
jee  
mo  
Lo  
' a  
' th  
' S  
' to  
' g  
' st  
' th  
' V  
' o  
' tr  
' w  
' m  
' h  
' co  
' h  
' an  
' hi  
' af  
cess  
abo  
to  
Sep  
the  
lan  
tre  
oth  
par  
for  
the  
diffi  
ject  
Bar  
tor  
in t  
Cha  
resp  
of F  
pros  
the  
ther  
tent  
who

the territory of Nova Scotia to the French, and that with the said cession, the Baronets lost their territorial rights. This objection falls, however, to the ground when we consider that three months afterwards, King Charles I.<sup>st</sup> addressed a letter to the Lord Advocate of Scotland, informing him that 'although by all Our several orders and erections concerning the removal for the present of the Colony lately planted at Port Royal in New Scotland, We have ever expressed that We have no intention to quit Our right and title to any of these bounds; yet, in regard our meaning, perchance, will not be sufficiently understood by those our loving subjects who hereafter shall intend the advancement of that work, for their satisfaction therein, We do hereby require you to draw up a sufficient warrant for our hand, to pass under Our Great Seal, to our said right trustie the Viscount of Stirling, to go on in the said work whensoever he shall think fitting, whereby, for the encouragement of such as shall interest themselves with him, he may have full assurance from Us, *in verbo Principis*, that as we have never meant to relinquish Our title to any part of that country which he hath by patents from Us, so We shall ever hereafter be ready, by Our gracious favour, to protect him, and all such as have, or shall hereafter at any time concur with him for the advancement of the plantation in these bounds aforesaid.' One twelvemonth after the date of the pretended cession of Nova Scotia, His Majesty in open Parliament, as above shewn, ratified and confirmed all the Charters and grants to the Baronets of lands in Nova Scotia; and on the 14th of September following, (1633) he appointed a Commission under the Great Seal, for passing of infeftments of lands in New Scotland. The fact was, that His Majesty having agreed, by the treaty of St Germain, to retrocede to the French, Quebec and other territories in *Acadia*, (the then general name of all that part of America) the French, under pretence that Nova Scotia formed part of *Acadia* usurped the same, and King Charles at the time was too weak in power, and encumbered with internal difficulties, to maintain the rights of his Crown, or of his subjects, against the foreign enemy. But a further proof that the Baronets of Scotland and Nova Scotia lost none of their territorial rights by the treaty of St Germain in 1632, is to be found in the patents of the Baronets, subsequently created by King Charles I. the greater number of whom had seisins to their respective grants, and by the various letters and instruments of King Charles I. above quoted, shewing his determination to prosecute all lawful helps, to carry into effect the whole of the objects for which the Baronetage had been instituted. Further, the rights and privileges of the Order in their amplest extent were conferred by His Majesty's Successors upon those who were raised to the Baronetage, down to the period of the

Union ; and there is a Charter of King William III. dated at Kensington the 27th of June, 1698, and passed under the Great Seal of Scotland, confirming a grant of lands in Nova Scotia that flowed from the Charters to the first Earl of Stirling, with the title and dignity of Baronet, which with the lands as annexed thereto, &c. were resigned for the granting of this confirmation to a new series of Heirs. This is nearly a century from the first grant, and is a formal, official, and unquestionable recognition of the force and validity of the Charter originally granted.

A second objection is suggested, viz. that the grant to 16,000 acres of land to be erected into a free Barony or Regality, conveyed by the constituent Charters to each member of the institution, has become forfeited by the failure of the grantees to fulfil the condition which is supposed to have been impliedly annexed to their grants, of locating the same, and of defending and maintaining them under the Royal authority. This objection, however, is nugatory : the plantation at Port Royal was abandoned in 1631, at the express command of King Charles I. himself ; His Majesty allowed the first Earl of Stirling £10,000, "in no ways for quitting the title, right, or possession of New Scotland, or of any part thereof," but only for satisfaction of the losses which had been sustained at his request by the removal of the colony ; and he further ordered the Lord Advocate to draw up a warrant to pass under the Great Seal to empower the first Earl of Stirling "to go on with the work of planting Nova Scotia whensoever he should think fitting," assuring him, *in verbo Principis*, that as he never meant to relinquish his title to any part of the country which the Earl had by patents of the Crown, so he should ever be ready, by his gracious favour, to protect him, and all such as had concurred, or should at any time concur with him for the advancement of the plantation of Nova Scotia. That the first Earl of Stirling, and the Baronets, his associates and portioners in the colony would have gone forward with the work, and that King Charles I. would have fulfilled his promise of encouraging the plantation 'by all lawful helps thereunto, as well by completing of the intended number of Knight Baronets as otherways,' cannot be doubted, had the state of his Kingdom remained tranquil, and his life terminated by the usual dispensation of providence. During the revolution which shook, and eventually overturned for a season the throne, the power of implimenting the conditions of their institution was taken away from the Baronets of Scotland and Nova Scotia. On the restitution however by the French, in the year 1709, of the possessions in North America belonging to the heirs of the first Earl of Stirling and his associates the Baronets, it was the part of the British Government to have called upon these parties to have fulfilled the terms and conditions

stipulated in their respective Charters. This, the government of that day did not do, but their neglect of it forms no hindrance to the Baronets of the present day, resuming the rights and privileges vested in them by the Charters erecting their Order. The failure of the Constituent Baronets to realize the conditions of the institution, was a consequence of the failure of the crown to afford them that assistance and protection which had been promised '*in verbo principis*'; and which under happier circumstances would have been punctually performed by that Sovereign, who, to use his own words, had ever been willing to add to the Baronetage what he considered to be necessary for testifying his respect to those that were already interested, and for encouraging of them who should thereafter interest themselves in the advancement of the work.

A third objection is interposed that the claims of the Baronets of Scotland and Nova Scotia to their territorial rights and privileges have become antiquated by the neglect, or the omission of the grantees to act upon their grants from the date thereof to the present time. It was not till the year 1763, when by the treaty of Paris, Nova Scotia was restored to Great Britain, in its full plenitude of extent and rights, that the Baronets were in a position to have implemented the conditions of their Charters; and it was then the duty of the crown as much as of the Baronets, to have carried them into force. Whether any proceedings were then adopted for this purpose does not appear, but the Baronets of Scotland and Nova Scotia, in virtue of the Charters, revived 1775, ipso jure, their right to wear the orange riband and badge conferred on the order by His Majesty King Charles I. in 1629, to commemorate the objects of the institution. Meetings of the Baronets, and their representatives in right of their lands in Nova Scotia, were called at Edinburgh for the 1st July and the 1st October 1783, by public advertizements, of which the following are copies:—

*' Meeting of Nova Scotia Baronets, and Representatives  
in right of their Lands in Nova Scotia.*

*' As measures are taking in London which may materially affect their interests in the estates granted to them in Nova Scotia, a meeting of the Baronets, and of those who are in right of their grants of lands, is desired at Fortune's Tavern at Edinburgh on Tuesday 1st July next at 2 o'clock.'—*

*Edin. Evening Courant 1783.*

*' Nova Scotia.*

*' The Baronets of Nova Scotia, or those who have rights as their representatives to lands in that province, are requested to*

'meet at Fortune's Tavern, 1st October at 12 o'clock, when a memorial to the Lords of the Treasury will be submitted to their consideration.'—*Edin. Advertiser* 1783.

And since that period various measures have been adopted by the Earl of Stirling for the restitution of his rights in North America. It might therefore with justice be contended that no prescription has taken place in the case of the Baronets to lands in Nova Scotia; but it is wholly unnecessary to instruct on these isolated proceedings any definite conclusion, seeing that the Charters never can be considered to have lost their force, as they have been homologated during the whole period of the usurpation of Nova Scotia by the French, by the Baronets enjoying under them the dignitorial rights and privileges annexed to their grants, and that the Charters of the constituent Baronets contain special clauses which declare that 'the grants shall be valid, sufficient and effectual in all time coming in all points in law, in all the Kings courts, and in all other places, notwithstanding any law, custom, prescription, practice, decree, or constitution before made, decreed, or published, or afterwards at whatever time to be made, decreed, and published, ordained, and provided.'

As it may be taken for granted that the length of time of non-user, and a conclusion therefrom of voluntary abandonment of their claims, will be strongly urged against the restoration of the territorial rights of the Baronets, it is important to be observed, that the clauses in the charters of the constituent members of the Orders, just quoted, directly excludes the Scottish prescription then recently introduced by the Act 1617, c. 12. The law of England could not apply; whilst the American law is favourable to the Baronets—for by a recent decision in the United States, it has been determined and affirmed, upon appeal to the Supreme Court at Washington,\* that a grant, originally well and sufficiently made, remains indefeasible, whether acted upon or not; and that no laches, however long continued on the part of the grantee or his heirs, affect the same. Indeed, with regard to the objection of prescription, it may not be irrelevant to observe, that the right of prescription has never been held to be so essentially a principle of natural justice that it might not be set aside by law. Two very important maxims of English law are directly opposed to it, viz. the rules '*nullum tempus occurrit Regi*,' and '*nullum tempus occurrit Ecclesiæ*;' i. e. to say, no adverse possession of however long standing can be a bar to a prior right of the King or of the Church. The doctrine of prescriptive right formed no part of the old common law of England, but was first introduced by Statute of the 32, Hen. 8th, so that far from

\* Case of the London Society for the Propagation of the Gospel in Foreign Parts *versus* the Town of Newhaven, Vermont, February 1823.

when a  
ted to

ted by  
North  
l that  
ets to  
struct  
seeing  
their  
period  
baron-  
ileges  
stitu-  
' the  
com-  
in all  
ption,  
pub-  
reed,

non-  
nt of  
f the  
rved,  
f the  
ption  
w of  
rable  
es, it  
reme  
suffi-  
not ;  
the  
d to  
erve,  
ssen-  
side  
rect-  
egi,  
erse  
ight  
tive  
was  
rom

ver-

bei  
tog  
of  
wh  
tue  
lun  
int  
pri  
of  
the  
pre  
exc  
exc  
sel

tor  
the  
in  
of  
La  
lst

know  
Plyn  
that  
are c  
unite  
Mass  
jestic  
part  
Up  
some  
the tr  
tendi  
direct  
cordi  
lies a  
tified  
Th  
tract  
to the  
threat

being a fundamental principle of natural equity, it has been altogether excluded by some laws, and certainly requires the aid of positive enactment to give it any binding force or validity whatsoever. By the special clause in the patents of the constituents Baronets above quoted, the inference of a non-user even voluntarily continued cannot avail, for the charters must all be interpreted and expounded according to their letter, and the principle of the true consideration which induced the granting of them. But indeed, in the present instance of claim against the crown, it would be rather bearing too much upon excessive prerogative to take away property by virtue of a *nullum tempus* exception, and yet refuse to restore it by not allowing the same exception to those whose claims were derived from the crown itself.

In the year 1731, the Opinion of the Attorney and the Solicitor Yorke and Talbot was taken, whether the King's right to the lands of Pemaquid remained in the crown, which corroborates in the strongest manner the view that we have taken of the claims of the Baronets. It is given in Chalmer's Opinions of Eminent Lawyers, London, Reed and Hunter, Lincoln's Inn, 1815, vol. 1st, page 78—110; and is as follows:—

CASE concerning the right to a Tract of Land lying between the rivers Kennebeck and St Croix.

By the Massachusetts's Charter the territories and colonies commonly called and known by the name of the Colony of the Massachusetts Bay, and Colony of New Plymouth, the Province of Main, the territory called Acadia or Nova Scotia, and all that tract of land lying between the said Nova Scotia and the said Province of Main, are ordained to be erected, united, and incorporated, and they are thereby erected, united, and incorporated into one real Province, by the name of the Province of the Massachusetts Bay in New England, and all lands, &c., to be holden of their Majesties as of their manor of East Greenwich, &c. yielding, therefore, yearly, one fifth part of all gold and silver ore, &c.

Upon a representation to His Majesty (King George the Second) in Council, that some Protestants from Ireland and from the Palatinate were desirous to settle upon the tract of land lying between the rivers St Croix and Kennebeck (Sagadahock), extending about one hundred and eighty miles in length on the sea coast, his Majesty directed that his Surveyor of the lands of Nova Scotia should assign them lands according to their desire, which he accordingly did about a year ago; and several families are now settled thereon, and improving the same, which were afterwards to be ratified to them.

The inhabitants of Massachusetts Bay, who till this time always neglected the said tract of land, as very inconsiderable and not worth their notice, claim not only a right to the government, but also to the lands in the said tract; and the government there threatens to drive the families (now settled there) immediately out of the same.

QUERIES.

- 1st. Whether the inhabitants of the Massachusetts Bay (if they ever had any right to the government of the said tract of land, lying between

St Croix and Kennebeck or Sagadahock,) have not, by their neglect and even refusal to defend, take care of, and improve the same, forfeited their said right to the government; and what right they had under the Charter, and now have, to the lands?

- 2d. Whether by the said tract being conquered by the French, and afterwards re-conquered by General Nicholson in the late Queen's time, and yielded up by France to Great Britain by the treaty of Utrecht, that part of the Charter, relating thereto, became vacated; and whether the government of that tract and the lands thereof are not absolutely reverted in the Crown; and whether the Crown has not thereby a sufficient power to appoint governments, and assign lands to such families as shall be desirous to settle there?

### OPINION.

Upon considering the said Case and Petitions, and the evidences laid before us, and what was alleged on all sides, it appears to us that all the said tract of lands lying between the rivers of Kennebeck and St Croix is (amongst other things) granted by the said Charter, to the inhabitants of the said Province, and that thereby power is given to the Governor and General Assembly of the said Province to make grants of lands within the said limits, subject to a *proviso*, that no such grants should be of any force until their said late Majesties, their heirs or successors, should have signified their approbation of the same.

It appears also by the said Charter, that the right of government granted to the said Province, extends over this tract of land.

It doth not appear to us that the inhabitants of the said Province have been guilty of any neglect or refusal to defend this part of the country, as can create a forfeiture of that subordinate right of government of the same, or of such property in the soil as was granted to them by the said Charter; it being sworn by several of the said affidavits, that a fort was erected there, and for some time defended at the charge of the Province, and that Magistrates and Courts of Justice have been appointed within this district, and that one of the Counsel for the Province hath always been chosen of this division; and though it is certain that this part of the Province hath not been improved equally with other parts thereof, yet considering the vast extent of country granted by this charter, and the great improvements made in several parts of it, we conceive that will not create a forfeiture, because, in such cases, it is not to be expected that the whole should be cultivated and improved to the same advantage; and whether there hath been such a neglect or non-user of any part, as may amount to a forfeiture, must be judged of not upon the particular circumstances attending that part only, but upon the circumstances of the whole.

And, if the Province had incurred any forfeiture in the present case, no advantage could be taken thereof, but by a legal proceeding, by *scire facias* to repeal their Charter, or by inquisition finding such forfeiture.

As to the question stated in the case, upon the effect of the conquest of this tract of country by the French, and the re-conquest thereof by General Nicholson, we conceive that the said country not having been yielded by the Crown of England to France by any treaty, the conquest thereof by the French, created, according to the law of nations, only a suspension of the property of the former owners, and not an extinguishment of it, and that, upon the re-conquest of it by General Nicholson, all the ancient

rights, both of the Province and of private persons, subjects of the Crown of Great Britain did revive, and were restored *jure postliminii*. This rule holds the more strongly in the present case, in regard it appears by the affidavits, that the Province joined their forces to those which came thither under the command of General Nicholson, in this service.

For these reasons, we are of opinion that the said charter still remains in force, and that the Crown hath not power to appoint a particular Governor of this part of the Province, or to assign lands to persons desirous to settle there; nor can the Province grant those lands to private proprietors, without the approbation of the Crown, according to the Charter.

As to the Case of the petitioners in the two petitions referred to us, who insist upon particular titles in themselves to certain parcels of lands lying within the district in question, we have examined into their claims, and find by the above mentioned copies of deeds and writings produced by them, that several of the petitioners and those under whom they claim, have had conveyances made to them of several of the said parcels of land, some from the Council of Plymouth, which was constituted by Charter, in the reign of King James the First, and whose grants are confirmed by the Charter of King William and Queen Mary, and others from Indians pretending to be owners thereof, under which large sums of money appear by the said affidavits, to have been laid out in endeavouring to settle and improve the lands therein comprised, several of which sums were expended not many years ago, particularly a sum of £2000, by Sir Bibye Lake, in the year 1714, and other sums of money, by others of the petitioners, in the years 1719 and 1720. And though these settlements and improvements have been in great measure interrupted and defeated, by frequent wars and incursions of the Indians, yet several of these petitioners, or their tenants, appear to be still in possession of some parts of the said tract of land.

Some objections were made before us to the nature of the grants and conveyances under which the petitioners claimed, and the manner of deducing down their titles; but we conceive, that in questions of this kind, concerning rights to lands in the West Indies, and upon inquiries of this nature, the same regularity and exactness is not to be expected as in private suits concerning titles to lands in England, but that in these cases, the principal regard ought to be had to the possession, and the expenses the parties have been at in endeavouring to settle and cultivate such lands.

Therefore, upon the whole matter, we are of opinion that the petitioners, their tenants or agents, ought not to be disturbed in their possession, or interrupted in carrying on their settlements in the lands granted to them, within the district in question.

11th Aug. 1751.

(Signed) P. YORKE.  
C. TALBOT.

On this point, with a very striking analogy of non-user and voluntary abandonment, there has been lately decided before the Lord's Committee for Privileges, (Lord Chancellor Brougham maintaining the doctrine) a case of claim made by the Viscount Courtenay to the Earldom of Devon. This honour was conferred on Henry Courtenay, who was created Earl of Devon by Queen Mary by Letters-patent, in which the words of limitation are 'Sibi et hæredibus suis masculis,' without the farther words, 'de corpore,' or 'quibuscunque.' He died shortly afterwards unmarried, and consequently without legitimate issue. The

Crown, considering the title vacant, conferred it afterwards, in the reign of King James I. upon the Lord Montjoy, who enjoyed it about three years, when he died without lawful issue, and it again fell to the Crown; whereupon the King once more revived the title, and created the then Lord Cavendish Earl of Devonshire, in whose family it now remains.

From the period of the death of Henry Courtenay, Earl of Devon, till the year 1830, the heir-male of his family never claimed the dignity, but allowed it without objection or pretension, to be granted to strangers. The several heirs-male in succession continued commoners, till at last raised to the peerage dignity in 1762 by the inferior title of Viscount Courtenay. But on a sudden the late nobleman, (a person of overmuch notoriety) thought fit to come forward and claim the Earldom of Devon, asserting that the limitation 'hæredibus masculis,' without addition, meant heirs-male collateral, and was not confined to heirs-male of the body; and cited, as a precedent for such construction, the claims pending before the House of Lords in the Annandale Peerage. The Lords decided in his favour; and though length of time is certainly not a bar to the inheritance of a title of honour, yet in this instance it is apparent there was a voluntary abandonment, with a voluntary approval of other families to take the dignity now re-demanded. The rule, however, laid down by the Lords was a conformance to the exact words of the Letters-patent conferring the Earldom.

In addition to the opinion of the Solicitor and Attorney Yorke and Talbot, and the case of the Earldom of Devon, may be recited the proceedings in the claim for the Hon. John Hamilton to the Regality of Drem, comprehending the lands of the Knight Templars within the Kingdom, recorded in the Heritable Jurisdiction Papers in the Advocate's Library. In the year 1614, these lands were resigned into the hands of the Crown, when a new Charter was granted, erecting them into a Barony and Regality, which was confirmed by Act of Parliament in 1617. In 1748, one hundred and thirty-four years afterwards, all heritable jurisdictions were done away in Scotland, when it was appointed that any one lawfully possessed of any justiciary, Regality, &c. should receive compensation for the same on proper application. In consequence of this, the Hon. John Hamilton, heritable proprietor of the Barony and Regality of Drem, presented a claim to the Court of Session for £3000 as the value thereof. The Crown Officers opposed this claim, on the grounds that it did not appear from the claimant's writs what his territory was, or whether he had any at all; that the Charter of 1614, ratified in Parliament in the year 1617, did not seem sufficient to establish a valid right of Regality, for the Act of Parliament 1633, annulled all Regalities of erections; and that the claimant could not be entitled unless he supported his right by the positive prescrip-

ards, in  
e enjoy-  
te, and  
ore re-  
Earl of

Earl of  
never  
preten-  
in suc-  
ceerage  
But  
riety)  
Devon,  
it ad-  
heirs-  
struc-  
e An-  
ough  
a title  
olun-  
milies  
laid  
f the

orke  
recit-  
on to  
ight  
Ju-  
614,  
en a  
Re-  
In  
able  
nted  
&c.  
ion.  
pro-  
aim  
The  
not  
her  
lia-  
alid  
all  
be  
rip-

ed,  
by  
Ch  
gra  
est  
the  
“*u*  
14  
ran  
tic  
E  
an  
Cr  
ye  
su  
co

tion. The Court having considered the condescendence put in for the Hon. John Hamilton, sustained his right to the heritable office of the Lordship and Jurisdiction of the Regality of Drem, and allowed him £500 as a suitable remuneration. (Acts of Sederunt, p. 428.)

In reviving after such a length of time, a claim on the part of the Baronets of Scotland and Nova Scotia, to grants of land and other interests in New Scotland, it is to be borne in mind, that the rights in question fell to the ground, not in consequence of a voluntary abandonment of them by the constituent members of the Order, but in consequence of the acts of King Charles I. himself. It was at the very moment that the erection of the Baronets for furthering the plantation of Nova Scotia had been approved by the whole Estates of the Kingdom of Scotland, and when, to quote King Charles I. letter, of the 12th of July, 1631, to the Lords of Council, 'he understood, both by the reports that came from Nova Scotia, and by the sensible consideration and notice taken thereof, by the neighbouring countries, how *well the work was begun*, Sir William Alexander, his Lieutenant there, having *fully performed* what was expected from him, for the benefit which was intended for him by the erection of the Baronets,' that His Majesty issued his commands to the Viscount of Stirling, in writing, dated from Greenwich, 10th July 1631, that 'he would not fail, as he would be answerable to His Majesty, to demolish the fortifications at Port Royal,—remove all the people, goods, ordinance, munition, cattle, and other things belonging unto the Colony, leaving the bounds altogether waste and unpeopled, as it was at the time when his son, Sir William, first landed to plant there, by virtue of his commission.' It was in consequence of these orders that the work of plantation was suspended in 1632; and it was not till one hundred and thirty years afterwards, upon the final restoration to the British Crown of Nova Scotia, by the treaty of Paris in 1763, that an opportunity was ever presented to the heirs of the first Earl of Stirling, and the representatives of his fellow portioners the Baronets, to avail themselves of the Royal Warrant, (directed to be prepared by the Lord Advocate of Scotland, and passed under the Great Seal, by King Charles' letter) of the 14th of June 1632, '*to go on in the work of planting Nova Scotia whensoever they should think fitting*.' When, however, after the lapse of the time mentioned, the British Crown became re-established in its rights in North America; the rights of the grantees of that Crown, or of their heirs representative, as a matter of course, returned to them. The validity of the grants and Charters to the first Earl of Stirling, were the very documents by which the conflicting claims of the French Crown were opposed, and finally disallowed; and if they were found in the various

treaties between England and France, valid and available for this purpose, they certainly cannot be deemed invalid or unavailable in a case where the interests of the possessors of the said grants and Charters are concerned. Neither can documents which were held sufficient to establish the rights of the British Crown in 1763, after they had been in abeyance one hundred and thirty one years, be held insufficient to establish in 1836, the rights of the grantees of the British Crown, after an abeyance of only seventy-three years. Considering that the constituent Baronets of Scotland, one hundred and eleven in number, each paid their quota, 2000 merks, towards the plantation of New Scotland,—that in most instances seisen was actually taken of the grants,—that their rights and privileges have been ratified by two Scottish Parliaments,—and that proclamation thereof was made in all the head boroughs of the Kingdom, it cannot be doubted that the rights and privileges of the Baronets remain good and effectual, as when bestowed by the Royal Founder of the institution.

Mr Broun, having read the Case, next submitted to the Meeting a sketch of a Baronet in the robes of estate appropriate for the members of the Order to wear upon Coronation, or other solemn State, occasions; a design for an Ulster Badge correspondent with the Nova Scotia Badge, granted to the Baronets of Scotland and Nova Scotia by King Charles I. in 1629; and a blazon of the Arms of a Nova Scotia Baronet charged with more heraldic correctness than what is now in use amongst the members of that branch of the Baronetage. These sketches, Mr B. mentioned, he had had the honour to submit to His Majesty at a private audience with which he had been favoured after a levee in August last year; they had been made after considerable research; and were based, the former, on the analogy pervading the higher degrees of dignity hereditary, according to which the Baronets, by their Charters, (as he had shewn in the Case just read) are privileged to have their insignia regulated; the latter, on certain clauses in their patents, which appear hitherto not to have been properly understood.

In the order of business, Mr Broun had next to advert to a circumstance of a personal kind, but which involved a question of privilege that affected the rights and honour of the whole Baronets of Scotland and Nova Scotia, and their families. He

referred to a claim which he had lately made, as the Eldest Son of a Baronet, for the dignity of Knighthood, and which had been refused. Considering that the proceedings on the part of the Order had, in a great measure, originated from himself, he had considered that it was only fair towards the Baronets with whom he had the honour to act, as well as towards the Order generally, to assert in his own person such of the claims as were more immediately connected with the degree of *Equus Auratus*. For this end, in compliance with the mode pointed out in the Royal Decree, in 1612, of King James I. ampliating the Baronetage with the privileges, the pre-eminences, and ornaments of Knighthood, he had, on the 20th of July last, addressed a letter to the Lord Chamberlain, reciting the promise and grant made by King James I. for himself, his Heirs, and Successors, 'that such Baronets, and their heirs-male, as thereafter should be no Knights, when they should attain, or be of the age of twenty-one years, after knowledge thereof given to the Lord Chamberlain of the Household, or Vice-Chamberlain, for the time being, or in their absence, to any other officer attending upon His Majesty's person, shall be Knighted by His Majesty's Heirs, and Successors,' and requesting of his Lordship to lay before His Majesty his (Mr B's) intention humbly to present himself, as the Eldest Son of a Baronet of ancient creation, at an early levee, for the dignity of Knighthood. Alongst with this application, continued Mr B., I sent to the Lord Chamberlain a certified copy of the patent conferring upon my ancestor, Sir Patrick Broun of Colstoun, and his heirs-male for ever, the con-joint dignities of KNIGHT BARONET; also a certified copy of the retour to Chancery of my father's special service to these titles, baptismal certificates of my own identity, and that I was of the legitimate age. Further, alongst with the application I also transmitted a case which I had drawn up, containing the clause from King James 1st's Royal Decree of 1612, above referred to, and also from the Commission and Letters Patent of King Charles I. in which he specially provides (as I have shewn in the Case), that 'the Baronets of Scotland and Nova Scotia, and their Eldest Sons, or apparent heirs-male of whatsoever heirs-male succeeding to them, shall each of them respectively, by Us, (King Charles I.) our Heirs, and Successors, be inau-

‘gaurated Equites Aurati;’ and having annexed to it the Opinion of an able Herald, the learned Standing Counsel of the Committee of Baronets, (which corresponds with a similar Opinion given by Sir William Follett) as follows:—‘I am of opinion that the Royal Decree of King James I., in 1612, confers upon every Ulster Baronet, and his Eldest Son, on attaining majority, the right to claim Knighthood at the hands of the Sovereign. It also appears to me that the same right is conferred upon the Baronets of Scotland created by virtue of the Royal Commission of King Charles I. in 1625; and I have seen in Heraldic Works of high authority (Sir Robert Gordon’s Genealogy of the House of Gordon, page 395; Nesbit’s Heraldry, Vol. 11, p. 132; Markhame, &c.) instances enumerated of Knighthood having been conferred upon the Eldest Sons of Baronets, in consequence of their acknowledged right under their father’s patents. The report of the Heralds recognizes the right of Baronets, and their Eldest Sons created previously to the 8th of George 4th; besides which, modern instances might be adduced where this right was successfully maintained, and indeed I am not aware of its having ever been questioned. (Signed William Crawford, 50 Chancery Lane, 15th July, 1836.)’

To my application I received, the day following, a letter from the Lord Chamberlain acknowledging the receipt of my letter and accompanying documents, and that he had transmitted them to the Secretary of State for the Home Department. On the 5th of the following month, I received a letter from one of the Under Secretaries of State, dated Whitehall, 4th August, informing me that ‘he was directed by Lord John Russell to acquaint me that the application which I had made to the Lord Chamberlain of His Majesty’s Household, claiming the honour of Knighthood in consideration of my being the Eldest Son of a Baronet, had been referred, by his Lordships directions, for the consideration of the Kings at Arms, who had reported that inasmuch as the Patent granting the dignity of Baronet to my ancestor, did not contain any clause authorizing his Eldest Son to claim the honour of Knighthood, they were of opinion, that I had no claim to that honour upon the ground set forth in my application, and that Lord John Russell therefore had directed him to express his

Opi-  
the  
Opi-  
opi-  
fers  
ing  
the  
on-  
the  
ave  
n's  
er-  
ced  
of  
ler  
zes  
ly  
ces  
d,  
d.  
y,

m  
er  
m  
th  
n-  
g  
nt  
r-  
t-  
t,  
a-  
as  
d  
e  
n  
d  
s



regret that he could not recommend to His Majesty to accede to my request.' On the receipt of this answer to my application, I addressed the following letter to the Secretary of State :—

'Clarendon Hotel, 6th Aug. 1836.

'My Lord,

'I have the honour to acknowledge the receipt of your Lordship's letter, of the 4th inst. informing me, in reply to my application to the Lord Chancellor for the honour of Knighthood, in consequence of my being the Eldest Son of a Baronet, that my application was referred for the consideration of the Kings of Arms, who have reported, that, inasmuch as the Patent granting the dignity of Baronet to my ancestor did not contain any clause authorising his Eldest Son to claim the honour of Knighthood, they are of opinion that I have no claim to that honour, upon the grounds set forth in my application.

'There has been a mis-conception of the grounds of my claim, I conceive, both on the part of your Lordship, and of the Kings of Arms, as your Lordship will find upon reference to my letter—in which I rested my claim not merely upon the phraseology of my ancestor's patent, however ample, but upon the Royal Charters erecting the dignity, and specifying and conferring the privileges which are to be enjoyed by all future Baronets, as well as those of original creation. The words used in conferring the dignity upon my ancestor, were prospective and retrospective, and gave him and his successors all rights and privileges which then were, or thereafter should be, enjoyed by any Baronet; and I need not inform your Lordship, that one of these acknowledged privileges and rights is—to claim Knighthood in the mode which I have adopted, under what I conceive to be competent advice.

'If, on further consideration of this subject, your Lordship should still be of opinion that the Kings of Arms have sufficiently reported upon this claim, and that they have not altogether allowed the strongest ground of claim to pass unnoticed, I shall not regret that the opportunity has been thus incautiously afforded me, of co-operating with the Baronets of Scotland, in the vindication of rights withheld solely from themselves—on grounds which, I conceive, fully warrant me in immediately

‘ seeking a judicial decision of the Privy Council on behalf of  
 ‘ myself, and the Scottish branch of the Order; a remedy to  
 ‘ which I am advised, I have an indisputable right, and to the  
 ‘ successful assertion of which, I shall look with the fullest con-  
 ‘ fidence.

I have the honour to be,

To the Hon the Sec. of  
 State for the Home Dept.  
 &c. &c. &c.

‘ My Lord,

‘ Your most obedt. humble Servant,  
 ‘ R. BROWN.’

To this letter on the 10th of August, I was acquainted by a communication from the Home Office, that the Secretary of State for the Home Department, had nothing to add to his Lordship's directions, on the 4th of the month. Thus the matter stands at present. It is almost superfluous for me to remark that this result of my application, was just what was to have been expected. It tallies, in every respect, with the view taken by the Officers of Arms, in their report on the other claims advanced by the Baronets, and is preferred on grounds equally tenable. This imports little, the Heralds' College is a register of arms, but it is a Court neither of law nor equity. With regard to the opinion of the Kings of Arms, Lord Brougham, during his chancellorship, remarked from the bench, that the opinion of a Herald, on a question of privilege, was, in his estimation as a lawyer, of no greater weight than that of a ticket porter's. I will willingly, however, acquit the heads of the Herald College, as regards the point at issue, of a degree of ignorance as to the rights and privileges of the Nova Scotia Baronets and their Eldest Sons, which would render the opinions of the three Kings of Arms in matters of honour, just as valuable as the opinions of the three tailors of Tooley Street, in matters of government. I will not, however, so acquit that party who lays the yoke upon these respectable officers, of stultifying themselves in the eyes of society. But, however, this may be, the Heralds will take nothing by their rejection of my application,—nor, in the long run, will those who are better entitled to be considered the authors of it. Justice will prevail:—the rights of the Baronets rest upon Charters which cannot be shaken by any tribunal in the land; and the opposition which is developing itself to the revival of those rights, will only stir up the more the zeal of those members who feel for the dignity of the Baronetage, and are determined to preserve its privileges en-

ture. It forms a feather in the dignity of the highest Peer of the Realm, that, by the courtesy of society, his Eldest Son bears nominally his secondary title. The Baronets then may well be proud that, from the grace of the Royal Founders of their Order, their eldest sons, on coming of age, are entitled to a degree which was once an object of ambition to the greatest princes; and before the reception of which, in former times, even the heirs apparent of the English Crown were not permitted to sit at meat with their fathers. This privilege is one, therefore, which, I hope I am correct in thinking, the Baronets of Scotland and Nova Scotia, shorn as they are of their ancestral immunities of sitting in the Supreme Legislature of the Kingdom, will not willingly allow their heirs-male to be deprived of. This I the more confidently reckon upon, as the Nova Scotia Baronets cannot be denuded of this dignity, without thereby losing the status which they hold of free equality with their Ulster Brethren; and in fact, of sinking into a species of demi-Baronets, which would place them on a grade inferior to every branch of the Baronetage of the Empire. Whether, therefore, I shall adopt proceedings before the Privy Council of England, or raise an action of declarator of right before the Court of Session, I shall equally look to the Baronets of Scotland and Nova Scotia, and to their eldest sons, for their co-operation and support in asserting this claim.

Mr Broun then submitted to the Meeting a drawing exhibiting the dress of estate, and the various ornaments which pertain to the degree of *Eques Auratus*, of which it is sufficient to instance the Collar of S.S., the scarf, belt, sword, gold spurs, &c.

I have next, continued Mr B., to advert to the subject of a Chapter of Baronets for the regulation of the Order. The Meeting is no doubt aware, that the Order of Baronet is the only estate of dignity in the Realm, which has not the power of regulating its own affairs. This is, perhaps, the real cause why so many valuable rights and privileges of the Baronetage have never been asserted, or allowed to fall into abeyance. In consequence, also, of this circumstance, many irregularities and abuses have crept into the Order. It has formed, therefore, an object of special anxiety with the Standing Committee of Baronets, and with all the Members of the Order who have concurred in these proceedings, that the Baronetage should be constituted a capitular institution. Accordingly, it formed a prayer in one of the petitions presented

to His Majesty in the course of the last year, 'that His Majesty would be most graciously pleased to approve of the formation of a Chapter of Baronets, for the Regulation of the Order, by Statutes to be prepared by His Majesty's petitioners, and afterwards submitted for His Majesty's royal approval and sanction.' Had this prayer been acceded, it was proposed as an effectual means of purging the Baronetage of all surreptitious titles, and of shutting the door in future against false assumptions, to have made it, by statute, compulsory upon any person not an *Eques Auratus*, succeeding to a Baronetage, to present himself at Court, either personally, or by proxy, for Knighthood; and that this dignity should be conferred by the Sovereign upon none but such as should have their applications certified as correct by the Chapter of Baronets. Considering that the Peers, by a Committee of their body, exercise a control in all matters of privilege relating to their dignities, and that each of the Royal Orders of Knighthood, by the favour of the Sovereign, have Chapters for regulating their affairs, it was confidently hoped that His Majesty would have granted this prayer of his Petitioners. It was, however, with the other objects sought, referred to the Officers of Arms, who, shutting their eyes upon the notorious abuses existing in the Order, as well as the whole circumstances which had conspired to render the presentation of the said petition necessary, reported it 'to be their humble opinion that the Baronetage being a hereditary dignity, whose privileges are already clearly defined and established by the several letters patent, and other acts of the Crown by which they are governed, as well as set forth in every patent conferring the honour, there did not appear to them to be any necessity for assimilating the Baronets to the Royal Orders of Knighthood, by constituting them a caputular body.'

Notwithstanding this unfavourable opinion of the Heralds, the Standing Committee of Baronets, supported as they are, by 300 Members of the Order, do not abandon the hope that His Majesty will still grant a Chapter to the Order. In connection with this subject, I may mention, that it is proposed to found a Baronets' Club or Chapter House in London, and that already a very considerable number of Baronets and their sons have subscribed their names for this purpose. Though it may perhaps be deemed a little out of place, I shall at this stage advert to a

matter, in which, individually, I take not a little interest, and by which, if I am instrumental to accomplish, I consider I shall do the state some service. In these various proceedings in which I have taken an active part for the restoration of the Baronetage to its ancient status, I hope I have been actuated by higher motives than any that simply belong to the wish of seeing, to use the language of King Charles I., when he conferred on the Nova Scotia branch a part of the splendid prominence of the Order of the Garter, 'the Baronets honoured and have place in 'all respects according to their patents.' As a Scotchman, I hope I may say with a just pride, in which the highest and the lowliest of my countrymen may alike join me, that I cherish the memory of that Great Prince who first extended the sceptre of the ancient, but unimportant, land of our nativity over so many splendid portions of the globe, and that I venerate an institution which was founded by him for the noblest and most important of all purposes,—the social improvement of the nations gathered under his rule. In seeking to revive the *privileges* of the Baronetage, I seek also to revive the *objects* of the Baronetage. I should be happy to see in a period of national difficulty like that in which our lot is cast, when the pillars of society are daily shaking, the Baronets assert their right to put themselves at the head of the institutions in the state founded for the furtherance of social amelioration. That they should not only individually, and isolatedly, in their respective localities, emulate the conduct of those ancestors 'whose proffer 'to their sovereign, of their persons and fortunes, to promote 'his royal undertaking for the good of his people, moved him 'with the desire of accomplishing the same, and caused him, 'fondly regarding such generous inclinations, and minds so 'addicted to his service, and the public good, to reward new 'merits with new ensigns of dignity,'—but that, considering their patents of nobility as a retaining fee for collective exertions, they should as a body apply their wealth, their influence, and their example, to cultivate the vast domain of economic existence in the British Monarchy which has never as yet received the attention its importance deserves. Struck with the want that excited in the metropolis of a national institution for social objects, I have for several years past, co-operated with others of the most enlarged philanthropy, who consider, like myself, the

plough to be that instrument by which the prosperity of the great mass of the people can most effectually be wrought out, to form a NATIONAL ASSOCIATION for the protection and encouragement of the interests connected with the soil. These labours, I am happy to say, after much discouragement, were last December crowned with success; and already 'THE CENTRAL AGRICULTURAL SOCIETY OF GREAT BRITAIN AND IRELAND,' enrols 15 Peers, 46 Baronets, 71 Members of Parliament, 64 Local associates, and several hundred members. In connection with this powerful body, it is proposed to have a Club House; and considering that the objects of this association like that of the Baronetage, may be considered to be, 'to establish that the nation shall more and more flourish, not only in the true practice of religion, civil humanity, and probity of manners, but also in the affluence of riches and abundance of all things which contribute either to the ornament, or happiness of the commonweal,' the idea has suggested itself to my mind, that a building to contain a Baronets Chapter House in one wing, and an Agricultural College in the other, united by a Club House, common to both, might eventually attain the character of a NATIONAL INSTITUTION worthy of such influential parties, and of an interest combined on which rests the greatness, the happiness, and the stability of the British Monarchy. To illustrate my idea, I have called in the assistance of a rising architect, (Mr Dewsbury,) who has made the design, which I now lay upon the table. To carry it into execution would require nearly £100,000, a large sum abstractly considered; but no great matter amongst a body which counts in its number not a few whose annual income approximates to the amount.

Mr Broun then submitted a very elegant design for a national building, comprising in the right wing a Baronet's Chapter Hall, Library and other apartments, and in the left, a corresponding Hall for the General Meetings of the Central Agricultural Society, Committee rooms, Museum, Library, &c.; with a centre building for containing all the usual conveniences of a modern Club House.

I have now, continued Mr B., come to the 4th section of the paper of business, viz. to make some observations on the report made by the Officers of Arms on the claims preferred by the Baronets in the petitions presented to His Majesty in July last

year. This is a subject of a delicate nature, and it is one upon which I could have well wished to have been spared. In the case which I drew up, and read to the meeting of Baronets who originated these proceedings, I gave it as my opinion, (an opinion founded on the precedent set by the Baronets of Scotland and Nova Scotia when in the year 1775, after an obedience of 126 years, they resumed *suo jure* their right to wear their riband and badge,) that no other steps were necessary for the revival of the rights and privileges in question, than a resolution of the Baronets, as a privileged body, to resume the same. This opinion being unanimously concurred in by the Committee, a General Meeting of the Order was convened for that purpose on the 22nd of June 1835, and a series of resolutions declaratory of the intention of the Baronets to revive the said rights and privileges, were prepared in Committee for the adoption of the meeting. When however the meeting was held, the Baronet who was invited to move the 1st resolution, instead of doing so, suggested that, from a proper respect for the crown, it would be better to petition His Majesty to recognize the rights of the Order in question, than to assume them in the first instance, *breve manu*. Upon consideration it was thought preferable to adopt the suggestion of the noble Baronet than divide the meeting on the subject. Accordingly two petitions to His Majesty were agreed upon, the one praying as a boon, that His Majesty would be graciously pleased to put the Ulster Baronets on the same footing as the Nova Scotia ones as regards a badge; the other setting forth the dignitorial claims of the Order as treated in my case, and praying that His Majesty would be graciously pleased to direct his proper officers to report upon the evidence produced in support of the claim of the Order to the style of *the Honourable*, and to assign the insignia to the Baronets, in terms of King James 1st's Royal Decree of 1612, whereby the sixth degree of hereditary dignity is to be assimilated to the other five degrees of hereditary dignity. These petitions were presented to His Majesty, at his levee, on the 8th of July last year, by a deputation of Baronets, on which occasion His Majesty was graciously pleased to say, that 'He received with pleasure the petition of the Baronets,—that they should be duly considered,—that if on all points he should not be able to accede them, there were those which he considered entitled

‘to receive his favourable support,—that he would take a *personal* interest in the matter,—and do all he could.’ In consequence, a case was drawn up, setting forth the grounds upon which the various matters claimed in the petitions were made, which was transmitted to the Secretary of State for the Home Department, by him referred to the Earl Marshall, and by him referred for the opinion of the Officers of Arms. Thus, a body wholly incompetent to act in a judicial capacity came by a series of official references to sit in judgment upon the claims of the Baronets instead of the Privy Council, who were the ‘proper officers’ alluded to in the petitions. This indeed would have been a matter of little consequence, for the claims of the Baronets are so based in equity and justice, that they might have been left to the arbitration of any other equal number of men in the Kingdom, but the Heralds sat in judgment on these claims with shut doors, they reported upon the *case* setting forth the claims, not on the *evidence* by which the claims were supported; and they paid no attention to an express stipulation on the part of the Committee, that if on any point, a view was taken different from the one taken by the Committee, the Committee should be permitted to strengthen that point, and be heard, if necessary, by their Counsel in support of it. Thus, at the end of three months, when the Committee, from not having been called upon further to substantiate their claims in any point, were in daily and confident hope that the expectations raised by His Majesty’s most gracious reception of the deputation who presented the petitions, would have been realized, an official notification was received from the Home Office, that the Officers of Arms had made an unfavourable report on the Baronet’s claims, and that His Majesty, in consequence, had not been pleased to give any further directions upon the subject.

I shall not consider it necessary to enter at present into an exposé of the Herald’s Report. That will form a part of the proceedings on the occasion next season, when Counsel shall be heard at the bar of the Standing Committee of Baronets on the subject of the claims. But I will go the length of pledging myself to this extent, that upon the occasion referred to, unless in the interval a Declarator of the Court of Session shall render subsequent proceedings unnecessary, the frivolous vexations, and untenable grounds on which the Officers of Arms have ar-

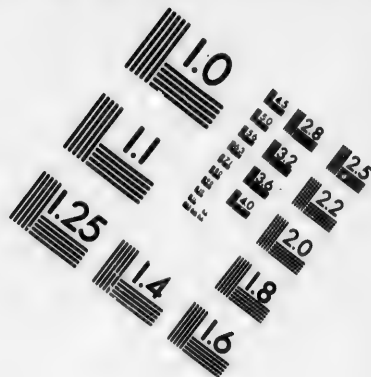
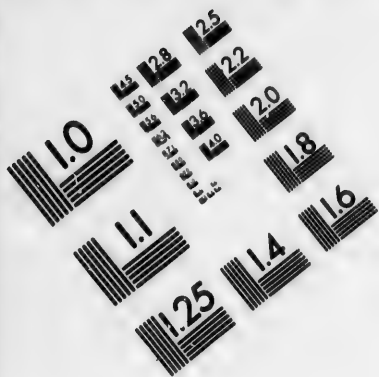
per-  
onse-  
upon  
made,  
Iome  
him  
body  
eries  
the  
oper  
have  
Baro-  
have  
men  
these  
orth  
sup-  
n on  
was  
om-  
be  
, at  
ing  
int,  
sed  
who  
cial  
cers  
et's  
een

an  
the  
be  
he  
y-  
in  
ler  
ns,  
ar-

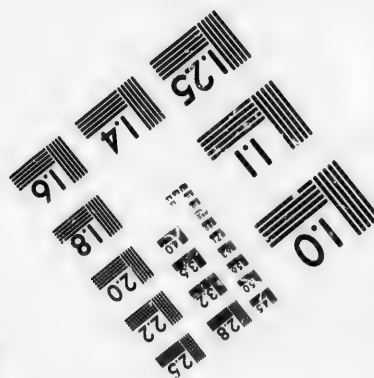
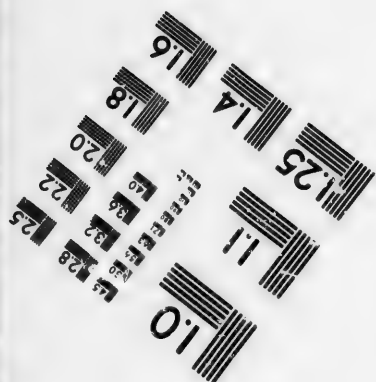
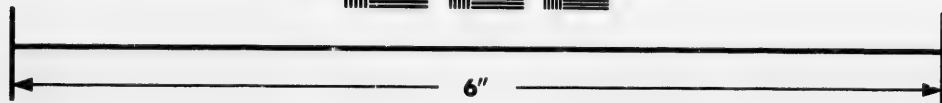
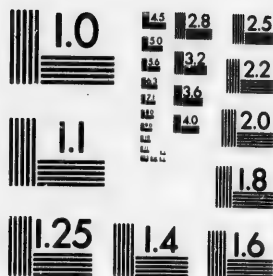
riv  
fec  
an  
' th  
que  
not  
Ore  
tors  
cou  
der  
side  
duc  
por  
nou  
hera  
ceip  
bool  
man  
But  
them  
limit  
pella  
and  
it wo  
the p  
and  
Why  
erect  
the C  
simila  
Sons  
trench  
the S  
privil  
comp  
the S  
petent  
such s  
are to  
tension

rived at their conclusions, will be put in a light which will effectually stale-mate their report on the questions at issue. As an instance, I shall take the first matter submitted—the style of ‘*the Honourable*.’ In this claim, the point for decision was a question of *fact*, not of *right*. The Baronets claim this style, not because they can produce Charters conferring it on the Order, but because they can produce evidence that their ancestors, during the 17th and 18th centuries, enjoyed it by the courtesy of society. What the Heralds therefore had to consider in terms of the prayer of the petition, was “to receive, consider, and report to His Majesty *upon the evidence* to be produced in support of this claim of his petitioners.” Now, in support of the fact, that Baronets were formerly styled “*the Honourable* ;” evidence has been collected from ancient writers, heraldic authorities, deeds, legal instruments, letters, leases, receipts, blazons of arms, monumental inscriptions, dedications of books, paintings, prints, &c. proving in the most indubitable manner the fact that Baronets were styled ‘*the Honourable*.’ But the Heralds shut their eyes to the facts, they pronounce them of no authority, they hold that the patents of the Baronets limit their designation, and humbly conceive that no other appellation was intended by the Founder of the Order than *Sir* and *Baronet* ; and that if the style of Honourable was conceded, it would create confusion, and interfere with, and encroach upon the privilege which courtesy has assigned to the Sons of Peers and Barons of the Coif ! O lame and impotent conclusions ! Why, the Founder of the Order himself in the three patents erecting it, published by royal authority, expressly designates the Order *Honourable* ; the confusion to be created would be similar to that which now prevails between the styles of Peer’s Sons and the styles of the Barons of the Coif ; and as to entrenching upon the privileges which courtesy has assigned to the Sons of Peers and others, why, who entrenches upon the said privileges but the Heralds themselves, when they allow it is competent for courtesy to give the style of ‘*the Honourable*’ to the Sons of Peers and Barons of the Coif, but that it is incompetent for courtesy to give it to the Baronets ! It is not upon such shallow grounds as these that the Baronets of the Empire are to be denuded of a style which they hold on equal pretensions, not merely with the Sons of Peers but with Peers.





# IMAGE EVALUATION TEST TARGET (MT-3)



Photographic  
Sciences  
Corporation

23 WEST MAIN STREET  
WEBSTER, N.Y. 14580  
(716) 872-4503

18 20 22 25 28 32 36 40

10 01

themselves. The Sons of Peers are no estate of dignity in the Realm, and they have their honorary titles and styles simply in virtue of the rank of their fathers. But the Baronets, like the Peers, hold patents of honour which ennoble both themselves and their families, and further like the Peers, with few exceptions, they are the heads of houses and names, who, for antiquity, wealth, and eminence, are not second to any in the Kingdom. Before then, the Heralds presume in the face of analogy and evidence, to decide that the patents of Baronets limit their style, let them produce, if they can, one single patent under which a Baron, Viscount, or Earl, can claim the honorary epithet of *Right Honourable*, a Marquess, that of *Most Honourable*, or a Duke, his of *Most Noble*. The Charter of King James I. of 1612, which directs that the Baronets shall in all matters be adjudged and assigned, as by the usual rules, custom, and laws for place, precedence, and privilege, the hereditary degrees have been adjudged and assigned, is a better warrant for Baronets to have the style of *The Honourable*—than any captious objection which the Heralds can advance against them. But they have a preferable right still—*that of custom*. Use and wont on this point has regulated for the sixth degree of dignity hereditary, in the same manner that use and wont has regulated for the other five superior degrees: and the right of the former to the style in question cannot be challenged, without shaking the basis on which rests the styles of the latter. On this particular the Heralds are at fault alike in taste and discretion; though I must do them the justice to allow, that it is only of a piece with their findings on the claims of the Baronets generally.

It does not become me to impute motives to a body of Heralds who are, or ought to be, imbued with the chivalric feelings of their office. Less would I presume to cast reflections on the Officers at Arms of England, some of whom I know to be men of talent, urbanity, and sensitive honour, in their vocation. But, at the same time, they hold subordinate offices, and it appears to me, though I may be wrong, that they at present hold them under hard taskmasters. It is to my mind, I confess, a matter inexplicable as regards the Ulster Badge, sought as a boon of His Majesty as the sole arbiter in matters of dignity, that it should have been deemed by the Home Office a fit subject

for reference to the Herald College, after His Majesty had declared, in the presence of his Court, to the Baronet who presented the petition, '*that he would take a personal interest in the wishes of his petitioners.*' From what I know of the etiquette of Court, and the respect due to Majesty, I am free to state it to be my conviction, that the Heralds durst not have presumed in their Report to offer an opinion on this request, which amounted to a *veto* on the declared and known intention of the Sovereign, unless, for an interference from some quarter, which was exercised alike in contempt of the prerogative of the crown,—the will of the king,—and the dignity of the Baronetage. Considering, however, that the boon sought by the Ulster Baronets to be placed on a similar footing with their brethren of Nova Scotia as regards a Badge, is the first favour of the kind substantively sought of the Sovereign since the erection of the Baronetage,—that it is preferred in a reign when many other classes of His Majesty's subjects are receiving large accessions of rights and privileges,—and that it is made after the lapse of 225 years, during which *eight* out of the twelve titled orders in the State, have had their decorations and insignia augmented,—this request is one which the Baronets consider they can urge upon their gracious Sovereign with equal justice and propriety. As regards the *boon* sought in the first petition, I trust I may believe that there is not a gentleman in the three kingdoms cognizant of the circumstances, but will join with me in thinking that His Majesty, after what has passed, is bound in honour to grant the Badge. As regards the *privileges*, which formed the object of the second petition, after what has passed, the Baronets are not less bound in honour to assert them. It is indeed said that had the Baronets in their petitions asked less they would have obtained more. In the name of the Baronets, I repudiate the imputation! The Baronets, save and except the Badge, have asked *nothing* but what their Charters give; *LESS* than that, they will not take,—*MORE* than that, they do not desire.

I have to apologize to the meeting for the length of time which I have already occupied; I now proceed to the last section of the paper of business, and the more agreeable task, of submitting certain resolutions founded on this day's proceedings. I hope I am not mistaken in thinking that the claims of the Baronets of Scotland and Nova Scotia, as treated in the Case which I have

read, are too valuable to be allowed to remain in abeyance; the more especially as a few pounds from each of the members of the Order will be amply sufficient to have them adjudicated upon by a Court of Law. The first of the resolutions, then, which I shall beg leave to suggest, is to the effect that a Committee shall be appointed, with power to originate and conduct such proceedings for the revival of the rights and privileges in question, as shall appear expedient; the 2d. is a resolution declaratory of the intention of this meeting to revive the style of the *Honourable*; the 3d. regards the raising of the requisite funds by a subscription amongst the members of £5 each; the 4th., that the proceedings of this day shall be printed and distributed amongst those interested; and 5th., that the thanks of this meeting be tendered to the Standing Committee of Baronets, with an assurance from this meeting of co-operation, coupled with the hope that the Standing Committee will not relax their best exertions to secure the general objects in view.

On the first of these resolutions it is unnecessary for me to dwell. As regards the second, the resumption of the style of *the Honourable*, by a declaratory resolution of this meeting, there may exist a difference of sentiment. My reason for reviving it by an act of the Order is, that this claim is not one that falls under the cognizance of a judicial tribunal. This privilege, as I have already stated, does not rest on charter, but on usage and custom. It was given by society, and it may be withheld by society. It is a matter of fact that the Baronets, in the 17th and 18th centuries, enjoyed this style. I have collected a host of concurrent evidence which proves its use and wont beyond all question; this must meet the personal knowledge of some present; it is consonant with the intentions of the Royal Founder of the Baronetage; and it is supported by the analogy which obtains amongst all the other degrees of Hereditary Dignity. By passing the resolution in question, the meeting cannot compromise the Order: by not passing it the Baronets of Scotland would omit an opportunity which can never be recalled, of acting, on the first occasion of a public kind which has since assembled them, up to the noble principle which guided the Order in 1775, when they asserted their right of resuming the decorations given by King Charles I. and refused to submit their family honours to the decision of any party. Further, by pass-

re; the  
s of the  
pon by  
which I  
ee shall  
roceed-  
ion, as  
of the  
*trable*;  
a sub-  
at the  
mongst  
ing be  
assur-  
pe that  
ons to

me to  
yle of  
, there  
ving it  
lls un-  
, as I  
e and  
ld by  
h and  
ost of  
nd all  
e pre-  
under  
which  
gnity.  
com-  
otland  
f act-  
ssem-  
Order  
e de-  
their  
pass-

ing  
cont  
coun  
All  
The  
not s  
trial  
of Pe  
centu  
bility  
Baron  
Regal  
nearly  
Europ  
illustr  
poster  
woven  
As  
if a C  
Meetin  
delegat  
as shall  
great in  
claims,  
land, an  
true lig  
of view,  
Baronets  
to work  
objects w  
the Real  
institution  
errupted  
curring c  
not the B  
the law of  
people, li  
These inte  
to abeyanc  
template th

ing this resolution, nothing compulsory is intended. On the contrary, the courtesy of society gave, and, in like manner, the courtesy of society may withhold, the style of *the Honourable*. All is left optional, or rather to the good feeling of the public. The present age is not fertile in courtesies—nevertheless it has not so far declined from the ancient feeling of respect for ancestral honours as to withhold what is given to the younger sons of Peers, and Barons of the Coif, from those whose ancestors for centuries were free Barons of Parliament, and who were the nobility of Scotland as much as either Dukes or Earls. The Baronets of Scotland and Nova Scotia are, moreover, as Barons of Regality in Nova Scotia invested with rights and privileges nearly as ample as those enjoyed by many crowned heads in Europe; and as the chiefs of families and clans, their names, illustrated by the deeds of those whose merits ennobled their posterity, have, for many generations, been inseparably interwoven with the most brilliant transactions of their country.

As regards the other claims, whether dignitorial or territorial, if a Committee of Claims and Privileges is appointed by the Meeting, it will rest with the wisdom and the energy of those delegated with such an honourable trust, to adopt such measures as shall be best calculated for their restoration. Apart from the great interest which the Baronets and their families have in these claims, I am sanguine enough to hope, that the people of Scotland, and the inhabitants of Nova Scotia, will both see, in their true light, the great benefits that will arise, in a national point of view, from their revival. The institution of the Order of Baronets of Scotland and Nova Scotia was an admirable means to work out the objects proposed by its Royal Founders; which objects were the mutual benefit of their native Kingdom, and of the Realm which they intended should preserve its name and institutions in the western world. These objects have been interrupted, as has been shewn in the Case, by a variety of concurring circumstances, for which the British Government, and not the Baronets, is to be held responsible. But, apart from all the law of the Case, the intentions of a king for the good of his people, like the intentions of a father, ought to be held sacred. These intentions, like the rights of the Baronets, have fallen into abeyance; but it is never too late to realize plans that contemplate the happiness and the greatness of the Empire. The

great aims for the honour and weal of his ancient Kingdom which engaged the declining years of the first British Monarch of the House of Stuart,—of that illustrious prince whose character has never been appreciated as it ought, but of whom it is recorded, in pages where flattery and falsehood enter not, that his conduct was such, that it ‘so bound and firmly knit the hearts of ‘His loyal and religious people unto him, that His very name ‘was precious among them, that their eyes did behold Him with ‘comfort, and they blessed Him in their hearts as that sanctified ‘person, who, under God, was the immediate author of their ‘true happiness,’—ought to be held, at least by Scotchmen, in grateful remembrance. Let the people of Scotland reflect that the inheritance he left his subjects—for the interests of the Baronets and the public in this matter are nearly equal—was a dominion greater in extent than his native Kingdom; and let them take up this matter as a national question. That it was so viewed by the Meeting of Estates in the year 1630, we find from the act ratifying and approving of the institution of the Baronetage; for it is recorded that ‘all, in one voice, concluded and agreed ‘that His Majestie should be petitioned to maintain His rights ‘of New Scotland, and to protect his subjects, undertakers of ‘the said plantation, in the peaceable possession of the same, as ‘being a purpose highlie concerning His Majestie’s honour, and ‘the good and credit of His ancient Kingdome.’ There can, I think, be little difference of opinion, after the evidence which I have laid before the Meeting, that a Case in Law, as well as in Equity, can be established in favour of the Baronets. And there can be even less difference of opinion still, that the throwing of the unlocated parts of Nova Scotia into the hands of so wealthy a class as the Baronets of Scotland, would do much to give a new and permanent impulse to the industry of Scotland, to extend her trade, to increase her wealth, and to enlarge her happiness.\* If, in the year 1709, Queen Anne, in her speech

---

\* A very large portion of Nova Scotia, and more particularly of New Brunswick, the most fertile part of Nova Scotia, is unlocated. In reviving these claims, it is not intended to dispossess the present occupiers of land in Nova Scotia. In this respect, an equitable arrangement, satisfactory to all parties, can easily be effected. The government of late has been adopting measures for ‘appropriating and settling the waste lands in Nova Scotia;’ and it is said, some members of the government have contrived to appropriate for their own use, very considerable tracts. The Baronets

from the throne, after announcing that France had consented to restore the whole Bay and straits of Hudson, to deliver up the Island of Newfoundland, with Placentia, and to make an absolute cession of Annapolis, (formerly Port Royal,) with the whole of Nova Scotia or Acadia, observed,—‘Our interest is so deeply concerned in the trade of North America, that I have used my utmost endeavours to adjust that article in the most beneficial manner,—well may the Baronets having so great an interest in those possessions and trade, feel, in the present day, when the population and commerce of Nova Scotia has become so expanded, equally concerned, and use their best exertions to have their claims equitably adjusted. But neither Scotland nor Nova Scotia alone would benefit by the restoration of the rights of the Baronets. It is the opinion of an eminent engineer who lately traversed the localities, and published a work on the subject, that through the Lakes of North America may be opened a route for the traffic of the Eastern Hemisphere. That this can be accomplished, in an age when mechanical power is effecting such wonders,—and accomplished in a manner that would bring India, comparatively speaking, to our doors,—I do not doubt. Wealth and enterprise alone is wanting;—nor can I conceive a circumstance more likely to lead to such a result, than to place the western frontiers of that magnificent line of commerce through which might be poured into Europe the riches of Asia, in the hands of a body so influential as the Baronets of Scotland and Nova Scotia. On political grounds also, by the restoration of the Baronetage to its original objects, what mighty benefits would arise; to spread the aristocratical institutions of Britain over our possessions in Northern America, would form a rampart against the spread of those democratic opinions, which threaten, at no distant day, to sever them from the mother country; by imbuing our trans-atlantic fellow-subjects with those social feelings which has built up the British nation into its present state of greatness and prosperity. I am one of those who firmly believe that the noblest sentiments of human nature can better be developed under a kingly rule, than under that of any other kind of

and their chief, the King's hereditary *Locum Tenens*, only seek to save the government from the trouble of appropriating what does not belong to it. They are fully able to implement the conditions of their Charters, and to supersede the necessity of Joint Stock Companies, and all other jobbing plans, for the settling of Nova Scotia.

government; and I would wish to see extended the monarchical institutions of Britain, wherever British subjects exist. By reviving the Baronetage and its objects, in the western world, the greatest benefits, commercial and civil, would arise,—and the time may come, when the extension of the same Order to the East, (to Austral-asia) may be made instrumental to disburdening the energies of the nation of that debt which paralyses it, by enabling the legislature to pay off in honours and lands, those obligations which were chiefly contracted in paper, and which never can be paid,—though made payable,—in gold. Apart, however, from all public considerations, the Baronets by seeking a restoration of their rights in Nova Scotia, will only follow the example of those numerous other classes of His Majesty's subjects, who, during the present reign, have sought and obtained a restoration of ancient rights and privileges. And in doing so, it cannot be said that the Baronets will urge their claims upon unbecoming grounds, since it is only to realize the objects for which their ancestral dignities were bestowed. What those objects were,—what those objects are, I have already stated, and shall conclude by expressing a hope, that, the opinion of King Charles I. in His letter to the Baronets, of the 15th of August, 1632, which is embodied in the Case I have read, will be concurred in by the Meeting, by the Members of the Order generally, and by the public; viz. 'that the continuance of so noble a design may really be considered to be for the glory of God, the honour of the nation, and the benefit of all concerned in the right prosecution of it.'

---

Mr Broun having concluded, next submitted a series of resolutions similar to those adverted to in his address. When, after some observations by Sir J. G. Dalyell, it appearing to be the general sense of the Meeting, that time should be allowed for the Members of the Order, and those having an interest in lands in Nova Scotia, to consider maturely the Case that had been read, prior to entertaining the Resolutions laid on the table, Mr Broun consented to ~~propose~~<sup>postpone</sup> them till next meeting, substituting, instead, the following Resolution, which, on the motion of Sir William C. Seton, Bart. was unanimously carried:—

'That the proceedings of this day be printed, and that this Meeting, at its rising, do adjourn till after the distribution of

' the same, amongst the Members of the Order, for their consideration ;\* and that the Hon. Secretary be requested thereafter, to convene a Special General Meeting of the Order, and of such as have interest in lands, &c. in Nova Scotia, to consider what farther measures shall be adopted.'

William Muir, Esq. on behalf of Sir William Sibbald, Bart. stated to the Meeting, in reference to what had been said regarding the territorial rights vested in the Baronets of Scotland and Nova Scotia by their Charters, that that very question had been raised, and was now in dependence before the Court of Session. He had yesterday sent a copy of the proceedings to the Hon. Secretary, with a view to its being submitted to this Meeting. He also explained that as, agreeably to the Nova Scotia Charters, infestment was appointed to be taken at the Castle of Edinburgh, Sir William Sibbald at this moment stood vested in his portion of 16,000 acres of the territory of Nova Scotia. On this title and investiture, the Crown had thought proper to raise an action, with a view not only to reduce the title of Sir William to the dignities of Knight Baronet, but likewise to take away all right which he could pretend to any possessions in Nova Scotia, by virtue of the charters of his ancestors. Mr Muir further stated, that as the question thus at issue, between Sir William Sibbald and the Crown, embraced in substance the very object which it was the wish of this Meeting to establish, and might be viewed as a *trial case*, and as that question was nearly ready for judgment in Court, he begged respectfully to submit the Case to the consideration of the Meeting.

Mr Broun took an opportunity of expressing to the Meeting, the deep obligation which he was under to Ephraim Lockhart, Esq. W.S. for the very valuable information communicated by him ; without which, the Case, at best, must otherwise have been comparatively imperfect.

A vote of thanks was then passed to Sir John Campbell, Bart. for his conduct in the chair, after which the Meeting adjourned.

R. BROUN, *Hon. Secretary.*

\* The non-resident Baronets are requested to communicate their intentions in reference to these proceedings to the Hon. Secretary as early after the receipt of the Case as possible. Letters to be post paid, and addressed to Gibb's Hotel, Princess Street, Edinburgh.

7th November, 1836.